

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TIMOTHY JACKSON,
Plaintiff,

V.

LAURA WRIGHT, MILTON B. LEE, MELISA DENIS, MARY DENNY, DANIEL FEEHAN, A.K. MAGO, CARLOS MUNGUIA, AND G. BRINT RYAN, each in their official capacities as members of the board of regents for the University of North Texas System; RACHEL GAIN; ELLEN BAKULINA; ANDREW CHUNG; DIEGO CUBERO; STEVEN FRIEDSON; REBECCA DOWD GEOFFROY-SCHWINDEN; BENJAMIN GRAF; FRANK HEIDLBERGER; BERNARDO ILLARI; JUSTIN LAVACEK; PETER MONDELLI; MARGARET NOTLEY; APRIL L. PRINCE; CATHY RAGLAND; GILLIAN ROBERTSON; HENDRIK SCHULZE; VIVEK VIRANI; AND BRIAN F. WRIGHT,
Defendants.

Civil Action No. 4:21-cv-00033

BOARD DEFENDANTS' MOTION FOR SUMMARY JUDGMENT APPENDIX

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UNT 5061	Appx.027
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Brand deposition excerpts.....	Appx.038
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Open Letter on Antiracist Actions Within SMT

Anyone may sign this document via the Google Forms link at the end of the letter text. In the first 10 days after publishing, this letter received more than 900 signatures. We are still accepting signatures, but since the rate of signing has lowered significantly we'll only update the letter once per week. Thank you for your support!

At the Plenary Session of the Society for Music Theory's 2019 meeting, Philip Ewell, Yayoi Uno Everett, Ellie Hisama, and Joseph Straus powerfully demonstrated how systemic racism, sexism, and ableism animate musical discourse. They spoke not only with candor and wisdom, but also with exceptional courage. The *Journal of Schenkerian Studies*, in Volume 12, has just published a number of vitriolic responses to a single aspect of one presentation—under the pretense of scholarly debate, no less—and the ensuing scandal has diverted our field's focus from the structural critiques made in the plenary. The journal's violation of academic standards of peer review, its singling out of Prof. Ewell while denying him a chance to respond, and [the language of many of its essays](#) constitute anti-Black racism. These actions provide further evidence of the structural force of white supremacy in our discipline. While this episode is the most recent, and perhaps the most illustrative, the treatment Prof. Ewell received from the *Journal of Schenkerian Studies* is only the latest instance of systemic racism that marginalized Society members have faced for many years.

We applaud the [recent statement](#) of the Executive Board of the Society for Music Theory. To aid the Executive Board in their aim to “determine further actions,” we the undersigned advocate for the following:

1. A public statement from the President, authorized by the Executive Board and in accordance with the Policy on Public Statements, that SMT acknowledges the following three points: (a) that American music theory is historically rooted in white supremacy, the racist idea that whites are superior to nonwhites, (b) that these white supremacist roots have resulted in racist policies that have benefitted whites and whiteness while disadvantaging nonwhites and nonwhiteness, and (c) that these racist policies have resulted in injustices suffered by BIPOC at all stages of their careers. Further, we call upon the President, with the authorization of the Executive Board, to apologize to all BIPOC who have suffered such injustices, without equivocation.
2. A demonstration of support by the Society for the graduate students of the University of North Texas Department of Music History, Theory, and Ethnomusicology in their [call for accountability](#). We recommend that this support take the form of a letter to UNT Press demanding a full and truthful account of recent editorial processes at the *Journal of Schenkerian Studies*. This account should include information pertaining to which

authors submitted works through the call for responses and which were invited to participate individually, a description of the peer review process, details of which members of the editorial board, advisory board, and journal staff viewed submissions before publication, and an explanation of how certain authors were able to separate their roles as academic advisors to the editorial staff from their roles as authors.

3. The establishment of an Ombudsperson position or committee that advocates on behalf of those disadvantaged by imbalances of power in cases of conflict and misconduct related to journal editing, publications, conferences, governance, and teaching, since SMT has a role to play in promoting its policies for all members in all professional situations.
4. A statement that calls upon Society members to resign from the editorial board of the *Journal of Schenkerian Studies*, as the journal's recent comportment is incompatible with the SMT Policy on Ethics.
5. An amendment to the SMT Policy on Harassment, as it pertains to publication, to apply to members' behavior in all their scholarly endeavors, not only in SMT publications, discussion groups, and interest group interactions.
6. A censure of the advisory board of the *Journal of Schenkerian Studies*, pursuant to relevant portions of the SMT Mission Statement, Policy on Ethics, and Policy on Harassment, as the Society's policies have no meaning if violations do not invite censure. In particular, the Policy on Harassment states that "cases of proven offenses" will result in "revocation of membership and honors."
7. That all members of the society, as individuals, confront the ways we ourselves have sustained systems of racism and sexism through our own scholarship and pedagogy. The adoption of the above points is not a substitute for this self-reflection. That self-reflection will be aided by recent studies and works on antiracism, such as those [Harvard has compiled](#) and those in the [Chronicle of Higher Education](#). Members affiliated with an institution of higher learning can likely contact staff members dedicated to antiracist training and pedagogy. [Project Spectrum's keynote address at the 2020 MTSNYS conference](#) also outlines important steps that individual theorists can take toward enacting change in our field.

It is only through acknowledgment and sustained, careful reflection that we can truly begin to address these issues as an academic community. As a starting point, each music theorist must ask themselves: What books and articles do I read? What scholars do I cite in my own research? What music do I analyze in my research and in my classes? What readings do I assign in my classes? What interest groups am I involved with? What committees do I serve on and what is the racial and gender makeup of those committees? What students do I mentor? In short, we all need to ask ourselves: What have I done as an individual to perpetuate existing white supremacist systems of power and inequity in our field? Probing these questions in our work individually is essential to our collective reckoning.

This document was collaboratively authored by eight music theorists who identify as white: Edward Klorman, Stephen Lett, Rachel Lumsden, Mitch Ohriner, Cora S. Palfy, Nathan Pell, Chris Segall, and Daniel Shanahan. As is too often the case, white racial activism relies on uncredited labor by BIPOC. This document has benefitted from criticism, editing, and authorship by Philip Ewell, Anna Gawboy, Jennifer Iverson, Vivian Luong, and Toru Momii. Its failings rest with the initial authors.

We also believe that there is broad support within the music theory community and beyond for the views expressed in this letter. If you would like to show your solidarity, please add your name by filling out the form found at the following link.

Complete the form here and your name will be added alphabetically on the next daily update.

<https://forms.gle/wvLpit67oZU9rDE39>

Signed,

Damien Abner, Riverside City College
Rosa Abrahams, Ursinus College
Ruard Absaroka, University of Salzburg
Giulia Accornero, Harvard University
Stefanie Acevedo, University of Dayton
Byron Adams, University of California, Riverside
George Adams, University of Chicago
Byron Adams, UC Riverside
Kyle Adams, Jacobs School of Music, Indiana University
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Michael Berry, University of Washington
David Carson Berry, University of Cincinnati, College-Conservatory of Music
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Michael Boyd, Chatham University
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Bronwen Garand-Sheridan , Yale
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Sarah Gates, Northwestern University
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David Geary, Wake Forest University
Molly Gebrian, University of Arizona
Robin Gebrian, West Hartford CT
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Dr. Daniel Hartley, Trinity Laban Conservatoire of Music & Dance
Robert Hasegawa, McGill University
Amy Hatch, University of North Texas/University of Texas at Arlington
Stan Hawkins, University of Oslo and University of Agder, Norway
Midavi Hayden, Independent Artist-Scholar; Cincinnati, OH
Martin Hebel, University of Cincinnati College-Conservatory of Music
Garrett Hecker, Santa Fe College (Gainesville, FL)
Nicola Leonard Hein, Columbia University New York
Haley Heinricks, Harvard University
David Heinsen, University of Texas at Austin
Bill Heinze, University of Minnesota
Salvador Hernandez, University of North Texas
Matthias Heyman, University of Antwerp, Belgium
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Andrew Hicks, Cornell University
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Hubert Ho, Northeastern University
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Kevin Holm-Hudson, University of Kentucky
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Heather Holmquest, Nazareth College
Knut Holtstraeter, University of Freiburg, Germany
Tanya Honerman, University of Kansas
Erika Supria Honisch, Stony Brook University
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Fred Hosken, Northwestern University
Rachel Hottle, McGill University
Blake Howe, Louisiana State University
Alison Howell, Rutgers University
Madeleine Howey, Indiana University
Amanda Hsieh, University of Toronto
Charles Hsueh, Stony Brook University

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Bryn Hughes, The University of Lethbridge
Tim Hughes, The London College of Music
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Tatiana Koike, Yale University
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Robert Komaniiecki, University of Iowa
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Dickie Lee, University of Georgia
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Frank Lehman, Tufts University
Marc LeMay, Georgia State University
Jordan Lenchitz , Florida State University
Chris Lennard, The University of Texas at Austin
Rebecca Lentjes, RILM Abstracts of Music Literature
Kendra Preston Leonard, Silent Film Sound and Music Archive
Stephen Lett, University of Saskatchewan
Anne Levitsky, Dixie State University
Tamara Levitz, UCLA
Benjamin R. Levy, University of California, Santa Barbara
Michael Lewanski, Depaul University, School of Music
Edwin Li, Harvard University
Pengcheng Li, The Graduate Center, CUNY
Siv B. Lie, University of Maryland
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Stephanie Lind, Queen's University (Canada)
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Rebecca J. Long, University of Louisville
Gerardo (Gerry) Lopez, Michigan State University
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Sarah Louden, New York University Steinhardt
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Nicholas Luciano, Greensboro, NC
Rachel Lumsden, Florida State University
Justin Lundberg, Chicago
Siriana Lundgren, Harvard University
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Megan Lyons, University of Connecticut
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Noriko Manabe, Temple University
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OFFICE OF THE PROVOST
& ACADEMIC AFFAIRS



March 2, 2021

Dear Dr. Jackson,

Thank you for your response to the Ad Hoc Panel's Report of Review of Conception and Production of Vol. 12 of the *Journal of Schenkerian Studies* (JSS). I was heartened that you accepted some of the panel's recommendations, including: 1) the publication of a clear and transparent explanation for the journal's editorial process; 2) the appointment of an editor-in-chief who is a full-time tenured faculty member; and 3) the inclusion of a conflict-of-interest statement concerning submissions by editorial staff and members of the editorial board. I also note that you did not address the panel's fourth recommendation, which concerns issues of governance and oversight. Furthermore, you reserved the right for the journal to publish contributions that are not peer reviewed. It is important that faculty in the division and college who have an interest in the journal share an understanding of the credibility these changes will bring to the journal.

The university is moving forward with a plan to ensure that the JSS remains a prominent venue for peer-reviewed scholarship of the highest quality. In consultation with Dean John Richmond and Chair Benjamin Brand, I am charging the Division of Music History, Theory, and Ethnomusicology to launch a national search for a new editor-in-chief who is a full-time tenured faculty member preferably at an R1 university or comparable conservatory of music. This editor then will determine the membership of the JSS editorial board, recruiting new members as needed and renewing existing members as appropriate. In close collaboration with the board, the new editor will establish clear and transparent guidelines concerning the governance structure of the journal and its editorial, review, and publication practices, including the board's oversight role and whether the journal will publish contributions that are not peer reviewed. I expect these guidelines to comport well with the publication standards of *A Short Guide to Ethical Editing for New Editors* of the Council for Publication Ethics. The editor and board will be responsible for defining a timeline, selection of articles and other details related to the publication of the next volume of the JSS. The editor and board also will consult with Dean Richmond and Chair Brand to define the future relationship of the JSS with the College of Music, the Division of Music History, Theory, and Ethnomusicology, and the UNT Press; and on the opportunities for our graduate students to participate in the editorial process.

Dean Richmond, Chair Brand, and I are eager to see the *Journal of Schenkerian Studies* continue to make important contributions to the discipline of music theory. We are confident it will do so through the university's course of action outlined above. Thank you, once again, for participating in this review process.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Cowley". The signature is fluid and cursive, with "Jennifer" on top and "Cowley" below it, separated by a small gap.

Jennifer Cowley, PhD
Provost and Vice President for Academic Affairs

ELLEN BAKULINA, PH.D. 10/16/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
3 TIMOTHY JACKSON,)
4 Plaintiff,)
5 vs.) CASE NO. 4:21-CV-00033-ALM
6 LAURA WRIGHT, et al.,)
7 Defendants.)
8 *****

9 VIDEOTAPED ZOOM ORAL DEPOSITION OF
10 ELLEN BAKULINA, PH.D.
11 October 16, 2024
12 (Reported Remotely).
13

14 *****
15 VIDEOTAPED ORAL DEPOSITION OF ELLEN BAKULINA, PH.D.,
16 produced as a witness at the instance of the Plaintiff
17 and duly sworn, was taken in the above-styled and
18 numbered cause on the 16th day of October, 2024,
19 from 9:03 a.m. to 3:54 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported remotely by computerized stenotype
22 machine at the physical location of the Witness, Ellen
23 Bakulina, Ph.D., in Montreal, Canada, pursuant to the
24 Federal Rules of Civil Procedure and the provisions
25 stated on the record or attached hereto.

ELLEN BAKULINA, PH.D. 10/16/2024

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1 possible that we interacted between his plenary address
2 and the publication of Volume 12 of JSS, yes.

3 Q. Did anything prevent you from reaching out to
4 Philip Ewell individually and inviting him to participate
5 in Volume 12 of the Journal of Schenkerian Studies?

6 MS. QUIMBY: Objection, form.

7 A. I think my membership on the Journal of
8 Schenkerian Studies board prevented me from inviting him
9 personally to. So I would not -- I felt I could not
10 invite him and say like, hey, Phil, do you want to write
11 a response to the responses or response to something? I
12 could not. I felt I could not invite him on my own like
13 this because I was a member of JSS board.

14 Q. What prevented you, as a member of the JSS
15 board, from inviting Philip Ewell personally?

16 A. What prevented me was that as a board member, I
17 was -- I thought at least, maybe it was a wrong
18 perception, but I felt like as a board member, JSS
19 board member, I was sort of under the directions of its
20 advisory board, which, at that time, was Timothy Jackson
21 and Stephen Slottow. And because I was less empowered
22 in the division, meaning that I did not have tenure and
23 they both did and still do --

24 Q. Uh-huh.

25 A. -- I didn't feel enough independence to do what

1 I wanted to do. I felt like I needed to -- obey is not
2 the right word. To -- I felt submissive, I guess,
3 because I was afraid basically of being too independent.
4 I was afraid to say things to the advisory board, that
5 they would not -- I thought they would not necessarily
6 like what I did.

7 Q. That didn't prevent you from raising the
8 issue that they should delay the publication of
9 Volume 12 because the plenary session was going to be
10 published in Music Theory Spectrum, did it?

11 MS. QUIMBY: Objection, form.

12 A. That did not prevent me, correct.

13 Q. And you had just been at a talk in November
14 of 2019 where Philip Ewell received a standing ovation,
15 right?

16 MS. QUIMBY: Objection, form.

17 A. Yes.

18 Q. Did you feel an inability to speak to Philip
19 Ewell in any way?

20 MS. QUIMBY: Objection, form.

21 A. No.

22 Q. Did you feel there was a, quote, power
23 differential, between you and Philip Ewell as scholars
24 in the field?

25 MS. QUIMBY: Objection, form.

1 A. In the scholars of the field, yes. I think,
2 yes.

3 Q. But yet you felt that you could speak to him
4 about issues concerning publication in Theoria, right?

5 MS. QUIMBY: Objection, form.

6 A. Wait. Was it the same year?

7 Q. The Theoria article came out in 2020, right?

8 MS. QUIMBY: Objection, form.

9 Q. The same year?

10 MS. QUIMBY: Objection, form.

11 A. Yes. But it doesn't mean that the discussion
12 happened at the same time.

13 Q. Well, any discussions you had with Philip Ewell
14 over anything related to the publication in Theoria, did
15 you feel somehow intimidated by him?

16 MS. QUIMBY: Objection, form.

17 A. No, I did not feel intimidated by Philip Ewell
18 with respect to publication in Theoria mostly because he
19 was not in a position to give me any directions. His
20 article and my article in Theoria were on par with each
21 other and the third one by Segall. We were on par with
22 each other. And I might not remember perfectly well,
23 but I don't think Philip Ewell and I discussed much with
24 respect to articles in Theoria. I would not discuss with
25 him. I would discuss it with the editor.

1 Q. Were you intimidated by Frank Heidlberger as
2 the editor of the journal Theoria?

3 MS. QUIMBY: Objection, form.

4 A. Intimidated by the fact that he was the
5 editor or by something that he said?

6 Q. By the fact that he was the editor.

7 A. No, not really.

8 Q. Okay.

9 A. I was not in any situation with respect to my
10 publication in Theoria that would create any problematic
11 events, no.

12 Q. When you were formulating the call for papers
13 of the Journal of Schenkerian Studies to solicit articles
14 for the Symposium --

15 A. Um-hum.

16 Q. -- do you recall any discussion about whether
17 there should be a specific ideological focus of the
18 submissions?

19 MS. QUIMBY: Objection, form.

20 A. I remember that the call for responses. Now, I
21 don't actually remember the final form of the call for
22 responses.

23 Q. Um-hum.

24 A. But one of the drafts of the call for
25 responses, I remember seeing that email stated

1 Q. And I just had a few more questions about that,
 2 and then we'll move on to talking about the Schenker
 3 controversy.

4 A. Sure.

5 Q. But I just -- if you could, for the record, can
 6 you identify anytime before July of 2020 when you were
 7 the direct witness to Professor Jackson exercising
 8 disproportionate power over Mr. Walls?

9 MS. QUIMBY: Objection, form. Excuse me.
 10 Only indirectly. And so this is a little bit of a
 11 guess. But I will say, because I think it is relevant,
 12 I'm speaking of Walls' master's thesis. So his
 13 master's thesis is an analysis of an opera, Schenkerian
 14 analysis of an opera by a woman composer, French, from
 15 the nineteenth century. Schenkerian analysis of large
 16 portions of music. First of all, it's very difficult.
 17 And I applaud Levi for doing that. It's hard to do.

18 Q. Um-hum.

19 A. It seemed to be very strongly influenced by Dr.
 20 Jackson's thinking and intellectual style.

21 Q. Um-hum.

22 A. Because Jackson did an analysis of an opera
 23 around that time. I think he did -- well, I won't. I
 24 won't say things that I don't remember exactly. But he
 25 did an analysis of an opera. And he genuinely likes

1 obvious that the editor, Walls, would not be independent
 2 in making his decisions. He was obviously dependent on
 3 his -- on Jackson primarily because Jackson was his
 4 advisor.

5 Q. Was he so dependent on Professor Jackson as his
 6 advisor that it prohibited him from expressing
 7 independent views on Philip Ewell's work?

8 MS. QUIMBY: Objection, form.

9 A. I don't know. I can't speculate about that.

10 Q. Okay.

11 A. But I think it's possible, because the
 12 topic is extremely sensitive. And I know from personal
 13 experience that it's not easy to have objective opinions,
 14 and it's easy to sort of feel intimidated when it comes
 15 to sensitive topics.

16 Q. Do you think Professor Walls -- strike that.

17 Do you think Mr. Walls was more intimidated by
 18 Timothy Jackson or more intimidated by the Society for
 19 Music Theory's open letter condemning the Journal of
 20 Schenkerian Studies that he edited as a student editor?

21 MS. QUIMBY: Objection, form.

22 A. I don't know. I am in no position to judge
 23 about his -- how he feels or felt. I don't know.

24 Q. You said you were close to Mr. Walls. Did
 25 he ever discuss feeling unable to express his views on

1 doing Schenkerian analysis of extremely large portions
 2 of music, including operas. And when I was working with
 3 Levi, it occurred to me more than once. I was thinking,
 4 is it possible that he did all of this on his own? Like
 5 how much is this influenced by Jackson? So this is the
 6 only thing I can say. It looked like it was heavily
 7 influenced by Jackson. How much it was -- how much, you
 8 know, was it influenced or was it more Dr. Jackson sort
 9 of dictating more what to do to Levi Walls, I don't know.

10 Q. Okay.

11 A. So it's not about, you know, a specific
 12 interaction that I witnessed. It's something that I can
 13 only guess based on the intellectual substance of that
 14 thesis.

15 Q. And in your interactions with the editorial
 16 staff of the Journal of Schenkerian Studies leading up to
 17 the issuing of call for papers, did you have any direct
 18 knowledge of Levi Walls being affected by a so-called
 19 power differential between him and Timothy Jackson?

20 A. The power differential was obvious. I
 21 was not aware of any incidents, no. But the power
 22 differential was obvious because the fact that the
 23 Journal editor was the student of someone on the advisory
 24 board, Timothy Jackson, it was obvious that Jackson at
 25 least would have an influence on the editor. So it was

1 Timothy Jackson with you?

2 MS. QUIMBY: Objection, form.

3 A. No, never.

4 Q. Thank you. Let's talk about the Schenker
 5 controversy. And by Schenker controversy, do you
 6 understand I mean the controversy that erupted in July
 7 of 2020 when Volume 12, and especially the Symposium,
 8 came to light for the first time?

9 A. Um-hum.

10 Q. Okay. When did you personally realize there
 11 was going to be a controversy surrounding Volume 12 of
 12 the Journal of Schenkerian Studies?

13 MS. QUIMBY: Objection, form.

14 A. When I saw Facebook post that described the
 15 Volume 12 as -- as problematic. It used the word
 16 "racist." Racist, yeah.

17 Q. Who was the -- who was the author of the
 18 Facebook post that you read, if you recall?

19 A. Christopher Segall.

20 Q. Um-hum. Was Christopher Segall a contributor
 21 to Volume 12?

22 A. Yes.

23 Q. Do you remember Christopher Segall complaining
 24 that there was anything racist about the process before
 25 he published?

1 **A.** Yes.

2 **Q.** I have just one -- well, a couple of questions.

3 You would have received this email as well, right?

4 MS. QUIMBY: Objection, form.

5 **A.** I don't know. I'm not listed -- oh, I'm

6 listed. I think so. As I said, it's difficult to

7 remember everything.

8 **Q.** What is the musicfaculty@unt.edu, if you

9 know?

10 **A.** I should have been part of that, yes.

11 **Q.** Okay. Is it your understanding that these

12 are collective emails that go out to all members of

13 faculty, all members of music staff, music adjuncts?

14 **A.** Yes.

15 **Q.** And you're, of course, on faculty at this time,

16 right?

17 **A.** Yes.

18 **Q.** And you said you were in Montreal?

19 **A.** Yes.

20 **Q.** Did you retire there because of -- not

21 retire, but did you remove yourself to Montreal

22 because of COVID?

23 **A.** No. It's because I spent every summer in

24 Montreal. In fact, anytime I was not teaching, I spent

25 in Montreal, because of my family.

1 **Q.** Um-hum.

2 **A.** Because it's important not only what every

3 individual thinks what inclusion means, what racism

4 means, and so on, but also the public image of something.

5 So when Volume 12 of JSS came out, the public image of

6 UNT was affected, and this is what this email was about.

7 **Q.** Um-hum. Was the Journal of Schenkerian Studies

8 ever published again after July 31st, 2020, to your

9 knowledge?

10 **A.** To my knowledge, no.

11 **Q.** Do you think that reflected well on the

12 University of North Texas?

13 MS. QUIMBY: Objection, form.

14 **A.** I don't know. It's -- the question is too

15 general. I don't know.

16 **Q.** I'm going to transition to talking about what

17 two documents that you referred to. Well, actually, all

18 three documents besides some of the email correspondence

19 that you referred to when I asked you what documents you

20 had looked at to prepare for your deposition. This would

21 be the petition signed by faculty, the petition signed by

22 students, and the Ad Hoc Panel Report of November 25th,

23 2020. So I'm going to mark for the record the Ad Hoc

24 Panel Report.

25 (Deposition Exhibit Number 14 marked.)

<p>ELLEN BAKULINA, PH.D. 10/16/2024</p> <p>162</p> <p>1 Q. Oh, great. And so, of course, it was summertime. It was the end of July?</p> <p>3 A. Um-hum, yes.</p> <p>4 Q. You weren't on a faculty appointment up there of any kind, right?</p> <p>6 A. I was on faculty at UNT. I did not work anywhere else.</p> <p>8 Q. Okay. I meant in Montreal, so thanks.</p> <p>9 All right. So there is no reason to believe</p> <p>10 that you would not have received this email?</p> <p>11 A. No, there is no reason.</p> <p>12 Q. Okay. When Dean Richmond writes that the</p> <p>13 College of Music reaffirms the dedication to combating</p> <p>14 racism, what was your understanding of what he was</p> <p>15 referring to?</p> <p>16 MS. QUIMBY: Objection, form.</p> <p>17 A. My understanding was that he confirmed that</p> <p>18 inclusion was important at UNT.</p> <p>19 Q. And why was he, as you understood it,</p> <p>20 reaffirming this dedication to combating racism in</p> <p>21 this announcement?</p> <p>22 MS. QUIMBY: Objection, form.</p> <p>23 A. This is because Volume 12 of JSS created an --</p> <p>24 what's the word -- not unpleasant, objectionable public</p> <p>25 image of UNT.</p>	<p>ELLEN BAKULINA, PH.D. 10/16/2024</p> <p>164</p> <p>1 MR. ALLEN: And you'll have to give me a second here. I seem to have lost it. Where did it go?</p> <p>3 I'm going to need a second to -- sorry. I had this exhibit, and now I don't seem to have it anymore. I think this is it. Okay. I apologize, Professor Bakulina. One of the deposition exhibits I was going to show you, I misplaced, and I'm finding it again.</p> <p>8 Q. So I'm marking for the record as Exhibit 14, the Ad Hoc Panel Report. And I'm also going to publish that into the chat. We're just going to wing this.</p> <p>11 All right. So we're not going to go through the entire report. But the report had attached to it certain exhibits of its own that I have marked as part of the entire report. I'm only doing this because that keeps them all in one place. But for our purposes, I want to call your attention to a document that was attached to the Ad Hoc Panel Report. And again, I'm not trying to hide anything.</p> <p>19 Do you recognize this document as the Ad Hoc Panel Report of Review of Conception and Production of Volume 12 of the Journal of Schenkerian Studies dated November 25, 2020, correct?</p> <p>23 A. Yes. Yes, I do.</p> <p>24 Q. And do you recall that various documents were appended to the end of that report, including</p>
---	--

1 A. Okay.

2 Q. And the fact is that's why I'm asking, because
3 I don't know. It's in close proximity to Exhibit 17,
4 which is an email, including an attachment, that is
5 referred to in the letter -- excuse me, in the email
6 as "the letter I sent to Dean Richmond on July 29th,
7 2020."

8 Okay. And then later in the record, but a
9 few pages only, we find this. But of course, if it was
10 an attachment, it doesn't say I am an attachment. Do
11 you know what I mean? I'm just trying to see --

12 A. Oh, I see, I see, I see. So you are asking if
13 this is part of my report. Can I look once again at my
14 report to Dean Richmond?

15 Q. Absolutely.

16 A. Whatever that was the report for, I don't know.

17 Q. The previous exhibit?

18 A. I'm sorry. My English is getting --

19 Q. I understand.

20 A. The thing that I wrote for the Dean Richmond.

21 Q. I'm sorry. Yes. Sorry, I'm trying to find it.

22 It is just going to take me one second. That is not the
23 correct one. I know it's in here. Hold on.

24 Here it is. I believe it's Exhibit 11. Do

25 you recall examining --

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1 A. Yes. I recall examining it like an hour or two
2 ago.

3 Q. And I would represent to you that at least
4 the portions I've highlighted from July 29th, 2020 to
5 subparagraph (a), beginning on November 15th, 2019, are
6 more or less identical except for the date which somehow
7 got lost to this exhibit?

8 A. Yes. It's part of the same thing. I agree.

9 Q. Okay. Thank you.

10 A. Yes.

11 Q. I don't have any further questions about that.
12 I just wanted to authenticate that for the record,
13 Professor Bakulina.

14 So after the ad hoc panel issued its report,
15 which we've already examined to some extent and has been
16 introduced as an exhibit in this deposition, what
17 happened next?

18 MS. QUIMBY: Objection, form.

19 A. I understand you are asking about the Journal.

20 Q. Yes. What first activities did you engage in
21 concerning the Journal of Schenkerian Studies after
22 November 2020?

23 A. I see. I was invited by the dean, I think, the
24 dean to serve on a search committee that looked for
25 a new editor. And I served on that until the time I left

1 UNT.

2 Q. And what did you do as a person on the search
3 committee?

4 A. So first, we formulated a description of the
5 position.

6 Q. Um-hum.

7 A. And then we received, I think, two
8 applications. I don't have it anymore. And we
9 reviewed the applications.

10 (Deposition Exhibit Number 19 marked.)

11 MR. ALLEN: I do want to ask you about
12 that. I just want to mark for the record Exhibit 19.

13 Exhibit 19 is an email string from Benjamin Brand and
14 Jennifer Cowley, Renaldo Stowers, John Richmond. And
15 then it looks like it attaches a call for applications,
16 Editor of Journal of Schenkerian Studies.

17 Do you recognize this email?

18 MS. QUIMBY: Objection, form.

19 A. I see. I don't recognize this email. I
20 don't know if I received it.

21 Q. And I see that you are not on the string. So
22 if your answer is no, that's a perfectly fine answer.

23 A. Um-hum.

24 Q. Do you see this next email is, in Exhibit 19 is
25 --

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1 A. Yes.

2 Q. -- from SMT-announce on behalf of Bakulina,
3 Ellen. And this is your email, correct?

4 A. Yes, so I guess I was the one who sent it to
5 SMT-announce.

6 Q. And it's dated May 15th, 2021, right?

7 A. Yes.

8 Q. And I know this is small, so I'm going to blow
9 it up a little bit here. Can you read that?

10 A. Yes, I can.

11 Q. It starts UNT 5054, and it continues over
12 the next page, right? And I'm going to get rid of this
13 highlight. What is this Dear Colleagues document that
14 you have circulated to the SMT-announce list?

15 A. Sorry. Let me read. One minute.

16 Q. Yeah.

17 A. Seeking applications.

18 Q. Hold on. I just -- I'm sorry. That wasn't
19 intentional.

20 A. No problem. Okay. That's a different
21 document, right?

22 Q. My apologies. This should be it. I'm sorry.
23 I opened a new document, and it jumped out of the way.

24 It's one of the perils of virtual depositions, so please
25 have as much time as you want to examine this document.

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1 A. Okay. Yes, I am ready for questions.
 2 Q. Okay. And I just want to scan down to the next
 3 page, which goes over to UNT 5055.

4 A. Um-hum.

5 Q. And I just -- to highlight here, your name is
 6 at the bottom where it says, "Inquiries, nominations, and
 7 application materials should be directed to the search
 8 committee chair Jessica Nápoles via email. Search
 9 committee members include:"

10 And your name is listed as the first member,
 11 correct?

12 A. Yes.

13 Q. What is this document?

14 A. It's the call for applications.

15 Q. Call for applications for a new editor?

16 A. Yes.

17 Q. And was it your understanding that Timothy
 18 Jackson could not serve on the Journal of Schenkerian
 19 Studies editorial staff?

20 A. No. It was not my understanding that he
 21 could not serve on this.

22 Q. That was not communicated to you by Benjamin
 23 Brand?

24 MS. QUIMBY: Objection, form.

25 A. It was never formulated that Timothy Jackson

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1 cannot apply for this.

2 Q. Okay. And it says -- I'm just looking at the
 3 second sentence that begins, "We hope."

4 Do you see that?

5 A. Yes.

6 Q. Right here?

7 A. Yes, yes. I do, I do.

8 Q. I just wanted to read that into the record.

9 "We hope that the new editor or editors will
 10 help rejuvenate the journal, redefine it in light of the
 11 current state of music theory as a field, and restructure
 12 and rebrand it to promote its long term viability."

13 Did I read that correctly?

14 A. Yes.

15 Q. Can you tell me, as a member of the search
 16 committee, what you meant by redefine the Journal in the
 17 light of the current state of music theory as a field?

18 A. Because Volume 12 of the Journal was involved
 19 with Philip Ewell's ideas, I think that redefining the
 20 journal would deal with redefining it in relation to
 21 ideas of antiracism and redefining it with respect to
 22 the growing diversity of SMT. And also, redefining it
 23 with respect to the growing globalization of our field.

24 Q. Uh-huh.

25 A. Because our field -- I mean, JSS is an American

1 publication. And for a time, American music theory was
 2 relatively, not entirely, but relatively isolated. And
 3 there were real reasons for it. I'm
 4 not criticizing it right now. But there came a time
 5 gradually, but especially maybe, I will say maybe 20
 6 years ago, 15 years, where it was no longer just American
 7 music theory.

8 Q. Um-hum.

9 A. And the field was changing and is still
 10 changing globally around the world. And so there are
 11 music theorist societies now in many countries. There
 12 are some in Asia, and those are some of the youngest
 13 ones. There is one in Russia. There are some in Europe.
 14 And some of them are older and some are those are newer.

15 Q. Um-hum.

16 A. And more -- more than all of that, there's more
 17 and more interaction. So the field is being globalized.
 18 And to me, the rejuvenation of the Journal mentioned in
 19 this call for applications means that Schenkerian
 20 analysis, if it is to continue existing,
 21 it will continue existing in this new and much larger
 22 cultural context.

23 Q. Um-hum.

24 A. Not the context -- not necessarily or not only
 25 the context, you know, of former Schenker followers or

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1 Schenker students coming to the U.S. That was extremely
 2 important to the twentieth century, but no longer there.
 3 You know, how does the Journal and how does the area of
 4 Schenkerian studies exist in a more globalized world, in
 5 a world where all of these different cultures and all of
 6 these different countries and societies in the different
 7 countries interact and languages interact and ideas
 8 interact. And there is, of course, also, yes, greater
 9 racial and gender and other diversity in SMT itself in
 10 America. And that's really a context that simply did
 11 not exist some time ago. And I don't think this ever
 12 says that Timothy Jackson cannot do it or cannot apply
 13 for it. This is more about really two things: The role
 14 of the Journal in the new universe, may I say, and the
 15 role of the new universe or the changing universe,
 16 changing global intellectual context, in relation to
 17 what exists in Schenkerian studies nowadays.

18 Q. Okay. And following after the clause that
 19 calls for the redefining of the Journal in the current
 20 state of music theory as a field -- in the light of the
 21 current state of -- it says, "restructure and rebrand
 22 the Journal to promote its long term viability."

23 If I asked you what that meant, would your
 24 answer be more or less the same?

25 A. Yes, but it also would be more, and I can --

1 Q. Please.

2 A. Rebrand. I think I -- somebody did not come up
3 with this word, but I can tell you what I understand by
4 it.

5 (Cat sounds)

6 Q. She's tired at the end of the day, too, I
7 think. Sorry, I interrupted you. So we were asking --
8 you were going to define what your understanding of
9 rebranding a journal was. I apologize. I couldn't
10 resist with the cat sound.

11 A. No problem. The contents of a journal -- and
12 I'm not specifically talking about JSS, any journal or
13 any conference, there are things that are being analyzed,
14 pieces that are being analyzed, sources that are being
15 cited. In a way, that is the branding. You know, so if
16 I read a journal whose latest issue analyzes, let's say,
17 I don't know, Stravinsky, Bartók, and I don't know,
18 Rochberg or somebody like that, my first thought would
19 be that it's a journal on twentieth century art music.
20 If I need a journal that, you know, has in its latest
21 issue, I don't know, seven articles out of which six
22 are on various genres of popular music, I will probably
23 think that it's a journal on popular music or something
24 like that.

25 And I think that -- so I haven't reviewed

1 received two applications?

2 A. Yes.

3 Q. Who applied?

4 A. I don't remember the names. I am so very
5 sorry. I honestly don't recall the names. Both of
6 them are not well-known scholars in the field, which I
7 personally like that fact. That means that, you know,
8 people who haven't yet had an opportunity to show their
9 work a lot or their qualifications a lot would have an
10 opportunity to work. That's all I can say. I wish I
11 could recall the names.

12 Q. Were there documents reflecting the
13 applications of these individuals?

14 A. They were CDs in both cases.

15 Q. Were there any other documents that concerned
16 these two applications that you know of?

17 A. Let's see. There would be a -- there would
18 be the -- I don't remember if the cover of the CD would
19 be a separate documents. Or maybe the cover was simply
20 the email itself. Give me one minute, please.

21 Q. Can you just describe what you are doing there?

22 A. I'm reading the exhibit, the document that
23 you've shared, because I'm trying to see if we asked for
24 cover letter and CD separately or were they the same.

25 Okay. It would be here. Correct, thank you. At least

1 the last issues of JSS, of course, not counting
2 Volume 12. But I think that most people agree that
3 existing materials in JSS up to Volume 12 are mostly on
4 European music of the tonal era. Is that logical? Well,
5 that's the things that Schenker analyzed primarily. So
6 yes, a Journal of Schenkerian studies following in the
7 traditional Schenker logically seems completely good.

8 However, I also think that if the readership
9 of the journal made an effort to include pieces that go
10 beyond the, you know, white male, European composers of
11 certain centuries and made greater effort to publish
12 about the book of women, for example, or to publish
13 about, I don't know, an article about perhaps fully
14 tonal work by a -- non-like composer or American
15 composers. You know, there's more diversity there than
16 Europe. And that would also encourage more diversity in
17 future volumes. So to me, rebranding means, you know,
18 changing the contents of -- let's say, one volume or
19 two volumes would change how these journals would be
20 perceived in the future and showing the direction.

21 Q. So the new direction really had to embrace
22 new content of the kind you've described?

23 A. Yes, to me.

24 Q. Yes. And sorry. To follow up on something you
25 said earlier, you said to your knowledge, the committee

1 up to there, I'm sorry. I guess the cover letter for CD
2 was separate, okay, but I don't recall the details.

3 Q. Do you recall internal communications of the
4 committee about these two applications?

5 A. Yes. We -- yes.

6 Q. Would you have met to discuss them in person?

7 A. No. It was during the pandemic.

8 Q. Uh-huh. By Zoom?

9 A. It was by email.

10 Q. Okay. And so there would also be email
11 correspondence among the committee members reflecting
12 these two allocations, right?

13 MS. QUIMBY: Objection, form.

14 A. I think so.

15 Q. Okay. And you read those emails yourself,
16 correct?

17 MS. QUIMBY: Objection, form.

18 Q. At least as long as you were at the University
19 of North Texas, right?

20 A. As long as I was at UNT, yes.

21 Q. And are you -- do you have any knowledge of why
22 neither of these applicants were appointed?

23 A. I remember that one of them didn't have enough
24 experience in editorial work, or maybe both, but the
25 other one, I don't recall.

1 _____
2 _____

3 I, ELLEN BAKULINA, have read the foregoing
4 deposition and hereby affix my signature that same
5 is true and correct, except as noted above.

6 _____
7 _____

8 ELLEN BAKULINA
9

10 THE STATE OF _____)

11 COUNTY OF _____)

12

13 Before me, _____, on this
14 day personally appeared ELLEN BAKULINA, known to me or
15 proved to me on the oath of _____ or
16 through _____ (description of
17 identity card or other document) to be the person whose
18 name is subscribed to the foregoing instrument and
19 acknowledged to me that he/she executed the same for
20 the purpose and consideration therein expressed.

21 Given under my hand and seal of office on this
22 _____ day of _____, _____.

23

24 _____
25 NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

ELLEN BAKULINA, PH.D. 10/16/2024

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1 UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
2 SHERMAN DIVISION
3 TIMOTHY JACKSON,)
4 Plaintiff,)
5 vs.) CASE NO. 4:21-CV-00033-ALM
6 LAURA WRIGHT, et al.,)
7 Defendants.)

8 _____
9 REPORTER'S CERTIFICATION OF
10 ORAL DEPOSITION OF ELLEN BAKULINA, PH.D.
11 October 16, 2024

12 _____
13 I, KIM D. CARRELL, a Certified Shorthand Reporter
14 in and for the State of Texas, hereby certify to the
15 following:
16 That the witness, ELLEN BAKULINA, was duly sworn
17 and that the transcript of the oral deposition is a
18 true record of the testimony given by the witness;
19 That the deposition transcript was duly submitted
20 on November, 12, 2024, to Mary Quimby, attorney for the
21 witness, for examination, signature, and return to me by
22 December 16, 2024;
23 That pursuant to the information given to the
24 deposition officer at the time said testimony was taken,
25 the following includes all parts of record and the

1 amount of time used by each party at the time of the
2 deposition;

3 Michael Thad Allen - 05 HRS: 49 MIN
Mary Quimby - 00 HRS: 00 MIN

4 FOR THE PLAINTIFF:

5 Michael Thad Allen
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8 Quaker Hill, CT 06375
9 Telephone: 860.772.4738
Fax: 860.469.2783
E-mail: M.allen@allen-lawfirm.com

10 FOR THE DEFENDANTS:

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E-mail: Mary.Quimby@oag.texas.gov

16 - and -

17 Renaldo Stowers (Appearing Live)
Cari Jacoby
18 University of North Texas System
Office of General Counsel
20 801 North Texas Boulevard
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21 Telephone: 940.565.2717
Fax: 940.369.7026
22 E-mail: Renaldo.Stowers@untsystem.edu
cari.jacoby@untsystem.edu

23 I further certify that I am neither counsel for,
24 related to, nor employed by any of the parties or
25

ELLEN BAKULINA, PH.D. 10/16/2024

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1 attorneys in the action in which this proceeding was
2 taken, and further that I am not financially or
3 otherwise interested in the outcome of the action.
4 Certified to by me on this 12th day of November,
5 2024.

6

7

8

9

10

11

Kim D. Carrell, CSR NO. 1184

Date of Expiration: 7-31-26

JULIA WHALEY & ASSOCIATES, INC.

2012 Vista Crest Drive

Carrollton, Texas 75007-1640

214-668-5578/Fax 972-236-6666

JulieTXCSR@gmail.com

Firm registration No. 436

Firm registration Expires 5-31-25

16

17

18

19

20

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22

23

24

25

APPX.035

Message

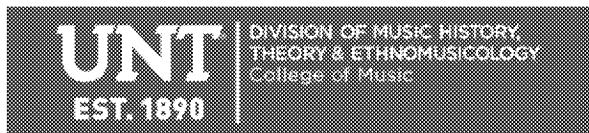
From: Brand, Benjamin [Benjamin.Brand@unt.edu]
Sent: 5/17/2021 4:51:46 PM
To: Cowley, Jennifer [Jennifer.Cowley@unt.edu]; Stowers, Renaldo [Renaldo.Stowers@untsystem.edu]; Richmond, John [John.Richmond@unt.edu]
Subject: FW: [Smt-Announce] Call for Applications: Editor of the Journal of Schenkerian Studies

Dear Jennifer, John, and Renaldo,

The call for applications for a new editor of the JSS has been publicized on the SMT email list. Applications are due July 30. The search committee will begin its review of them shortly thereafter.

All the best,
Benjamin

Benjamin Brand, Ph.D.
Pronouns: he, him, his | Professor of Music History
Chair, Division of Music History, Theory, and Ethnomusicology
College of Music | University of North Texas | (940) 536-3561



From: Smt-announce <smt-announce-bounces@lists.societymusictheory.org> on behalf of Bakulina, Ellen <Ellen.Bakulina@unt.edu>
Sent: Saturday, May 15, 2021 4:22 PM
To: smt-announce@lists.societymusictheory.org <smt-announce@lists.societymusictheory.org>
Cc: Napoles, Jessica <Jessica.Napoles@unt.edu>
Subject: [EXT] [Smt-Announce] Call for Applications: Editor of the Journal of Schenkerian Studies

Dear Colleagues,

The University of North Texas (UNT) is seeking applications for a new editor or editorial team for the *Journal of Schenkerian Studies*. Editor(s) will serve a 3-year term, beginning (tentatively) no later than January 2022. We hope that the new editor(s) will help rejuvenate the journal, redefine it in light of the current state of music theory as a field, and restructure and rebrand it to promote its long term viability. We are open to the possibility of teams of co-editors, and/or editors with associate editors, applying for the editorial role. The relationships between the journal and its institutional stakeholders can be examined and revised where appropriate.

The Journal of Schenkerian Studies is the only peer-reviewed research journal featuring articles on all facets of Schenkerian thought, including theory, analysis, pedagogy, historical aspects, and reviews of relevant publications. It currently is published annually by the Center for Schenkerian Studies and the University of North Texas Press.

Previous issues of the journal can be found here:
<https://digital.library.unt.edu/explore/collections/JSCS>

The University of North Texas Press co-publishes the journal with the Center and/or journal editor. The Press receives final print-ready files from the Editor and arranges for print publication and dissemination to subscribers for each annual issue. Within one year of print publication the journal is loaded with the UNT Libraries for open access.

Job description/responsibilities:

The editor is responsible for developing a process for determining editorial board membership, terms and length of service, and restructuring of journal guidelines. The editor will also ensure a fair and high-quality peer review of articles written in (or related to) the traditions of prolongational analysis.

The journal is expected to abide by the Committee on Publications Ethics (COPE) guidelines regarding best practices in editorial management.

https://publicationethics.org/files/COPE_G_A4_sg_Ethical_Editing_May19_SCREEN_AW-website.pdf

Minimum Qualifications:

- A record of sustained, high-quality research publication in peer-reviewed research journals
- Expertise in Schenkerian analysis/Schenkerian studies

Preferred Qualification:

- Editorial experience, as either an editor or an editorial board member of a research journal

Applications should include:

- a cover letter with expression of interest in the position, including the candidate's goals for the journal
- a curriculum vitae, including all contact information for the applicant
- a list of 3 references with current contact information

Inquiries, nominations, and application materials should be directed to the search committee chair, Jessica Nápoles via email at Jessica.Napoles@unt.edu. Search committee members include:

Dr. Ellen Bakulina, Assistant Professor of Music Theory, UNT

Mr. Ron Chrisman, Director, UNT Press

Dr. Graham Hunt, Professor of Music Theory, UT Arlington

Dr. John Ishiyama, University Distinguished Research Professor of Political Science, UNT

Dr. Jessica Nápoles, Associate Professor of Choral Music Education, UNT

All applications must be submitted electronically in a single .pdf. Review of applications begins July 30th and will remain open until filled.

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
3 TIMOTHY JACKSON,)
4 Plaintiff,)
5 vs.) CASE NO. 4:21-CV-00033-ALM
6 LAURA WRIGHT, et al.,)
7 Defendants.)

8

9 *****

10 VIDEOTAPED ORAL DEPOSITION OF

11 BENJAMIN D. BRAND, Ph.D.

12 September 23, 2024

13 *****

14

15 VIDEOTAPED ORAL DEPOSITION OF BENJAMIN D. BRAND,
16 Ph.D., produced as a witness at the instance of the
17 Plaintiff and duly sworn, was taken in the above-styled
18 and numbered cause on the 23rd day of September, 2024,
19 from 1:14 p.m. to 6:11 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported by computerized stenotype machine at
22 the University of North Texas System, 801 North Texas
23 Boulevard, Gateway Suite #308, Denton, Texas, pursuant
24 to the Federal Rules of Civil Procedure and the
25 provisions stated on the record or attached hereto.

BENJAMIN D. BRAND, Ph.D. 09/23/2024

2

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BENJAMIN D. BRAND, Ph.D. 09/23/2024

3

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APPX.038

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1 A. I'd say the tempo varies.

2 Q. This last article of yours, was it peer
3 reviewed?

4 A. No.

5 Q. Do you intend to submit that article for your
6 annual review?

7 A. No.

8 Q. At some point, you mentioned you started
9 working for the Berklee Conservatory? Did I get that
10 wrong?

11 A. The title is Berklee College of Music.

12 Q. And is this -- correct me if I'm wrong.

13 That's in Boston?

14 A. That's correct.

15 Q. When did you start working there, and what do
16 you do there?

17 A. I started working at the Berklee College of
18 Music, I believe, in March of 2024. And my duties were
19 to teach music history classes.

20 Q. Have you left the University of North Texas?

21 A. No.

22 Q. Are you on sabbatical of some sort?

23 A. No.

24 Q. What is the nature of your position formally
25 with Berklee?

BENJAMIN D. BRAND, Ph.D. 09/23/2024

22

1 A. As an -- my -- I serve as an adjunct
2 instructor.

3 Q. Are you still obligated to teach and so forth
4 at UNT?

5 A. No.

6 Q. Have you held any other positions besides those
7 that you've named at the Berklee Conservatory and the
8 University of North Texas?

9 A. Yes.

10 Q. Can you please enumerate them?

11 A. I currently hold the position of senior
12 director of new ventures in digital strategy innovation
13 at UNT.

14 Q. New ventures? Is that what you said?

15 A. Um-hum.

16 Q. What is that and what is its relationship to
17 UNT?

18 A. Could you elaborate on relationship?

19 Q. Well, let's break it into two parts. Describe
20 for the record what new ventures is.

21 A. New ventures is potential new projects of
22 the division of digital strategy and innovation we may
23 pursue.

24 Q. And what is the relationship of new ventures to
25 the larger institution, University of North Texas?

1 A. The relationship of the position is that it
2 reports to the vice president of digital strategy and
3 innovation.

4 Q. Is it a center?

5 A. No.

6 Q. How long have you been associated with new
7 ventures?

8 A. I began that position in June of 2023.

9 Q. So you were the division head in 2020, correct?

10 A. I was the division chair in 2020.

11 Q. I'm sorry. Thanks for correcting me.

12 And do you recall a controversy arising in
13 approximately July of 2020 involving the Journal of
14 Schenkerian Studies?

15 A. Yes.

16 Q. Can you explain for the record your
17 understanding of what that controversy was about?

18 A. My understanding of the controversy is that
19 it centered on the content and the quality of research
20 in a volume of the Journal of Schenkerian Studies.

21 Q. What about the content of the volume
22 published by the Journal of Schenkerian Studies became
23 controversial at that time?

24 A. My recollection and my understanding is that
25 a number of the contributions, the articles in the

BENJAMIN D. BRAND, Ph.D. 09/23/2024

24

1 Journal, were perceived to be racist.

2 Q. Did you read the articles in the Journal --
3 let's back up a second.

4 Do you recall what volume of the Journal of
5 Schenkerian Studies was published in that time period?

6 A. To the best of my recollection, the number of
7 the Journal, the number of the issue of the Journal or
8 volume of the Journal was 12.

9 Q. So if we refer to Volume 12, you'll know I'm
10 talking about that specific publication that came out in
11 July of 2020, right?

12 A. Yes.

13 Q. Likewise, just to get some formalities out of
14 the way, if you or I refer to JSS, we'll both know and
15 understand that refers to the Journal of Schenkerian
16 Studies?

17 A. Yes.

18 Q. So let me back up and ask it again. Did you
19 read Volume 12 of the Journal of Schenkerian Studies?

20 A. I did not read it in its entirety.

21 Q. Let me be more specific. In July of 2020, did
22 you read the Journal then, even if you may not have read
23 it in its entirety?

24 A. In July?

25 Q. Yes. How much of it did you read in July?

APPX 039

1 **A.** To the best of my recollection, I did
 2 not perceive the criticisms that were being made of
 3 Volume 12 of the JSS as threats to the UNT Academic
 4 Integrity Policy.

5 **Q.** Is there an exception to the UNT's Academic
 6 Freedom Policy for accusations of racism?

7 **A.** Not that I'm aware of.

8 **Q.** Going back to Volume 12 of the Journal
 9 of Schenkerian Studies, what do you recall the main
 10 criticisms of the Journal being? You've already
 11 identified that, I guess, some people from outside
 12 the University thought something was racist. People
 13 from within the University, including the graduate
 14 students and faculty, were submitting statements. We
 15 will be able to review those in a second.

16 **A.** Um-hum.

17 **Q.** But I just wanted to ask you, besides attacks
 18 on the content of the Journal, what were the criticisms
 19 leveled at the University of North Texas Press? Excuse
 20 me.

21 **A.** I don't --

22 **Q.** Strike that question.

23 What were the -- besides the things we've
 24 already discussed, what were the criticisms leveled at
 25 the Journal of Schenkerian Studies in this July 2020 to

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1 November 2020 time frame?

2 **A.** As I recall, one of the main criticisms was
 3 that some of the content of the volume was racist; that
 4 some of the content of the volume was poorly researched
 5 and of lower scholarly quality. Again, I'm paraphrasing.
 6 And that the issue -- sorry. The volume in question had
 7 not gone through a peer-review process. Those are the
 8 three criticisms that I recall.

9 **Q.** And I believe you already testified that
 10 you couldn't identify what specific content, at least as
 11 you read it, was racist, right? You didn't have the
 12 scholarly familiarity with that field or that specialty
 13 to make a judgment?

14 **A.** As I recall, I didn't feel like I had the
 15 scholarly expertise to make a definitive judgment as to
 16 whether a certain article was racist or not.

17 **Q.** And about the scholarly or not scholarly, do
 18 you remember what specifically was considered, quote, not
 19 scholarly?

20 **A.** I would say the one thing that I recall
 21 particularly clearly as an example of the quality of
 22 research involved was the citation of a Wikipedia
 23 article in one of the contributions. I believe that
 24 contribution was by Dr. Jackson.

25 **Q.** Do you agree with that criticism, that a

1 journal that quotes Wikipedia in some shape or form is,
 2 per se, not scholarly?

3 **MR. WALTON:** Form.

4 **Q.** Let me strike that question.

5 So was the -- to the best of your memory, was
 6 the criticism that a journal article that cited Wikipedia
 7 could not be scholarly?

8 **A.** To the best of my memory, that -- my
 9 recollection, that was not a-- that was not the
 10 criticism being made.

11 **Q.** What was the criticism?

12 **A.** As I recall, it was the way that the
 13 Wikipedia article in question was being used as a
 14 definitive source.

15 **Q.** Did you read that article and make a
 16 determination of how that was being used as a, quote,
 17 definitive source, I guess, as you've characterized it?

18 **A.** That was one of the articles I've read.

19 **Q.** And you've certainly published enough
 20 yourself and are familiar enough with scholarship to
 21 make a judgment about that, right?

22 **A.** I believe so.

23 **Q.** So did you find that invocation of Wikipedia,
 24 for whatever reason in that article, to be, quote, not
 25 scholarly, close quote?

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1 **A.** As I recall reading that citation in Wikipedia
 2 in particular, it struck me as -- as not something that
 3 would be within the mainstream of normal scholarly
 4 research practice.

5 **Q.** Did you ever confirm that it was false in any
 6 way? The quotation to Wikipedia.

7 **A.** I don't recall whether it was a quotation of
 8 some citation from a Wikipedia page.

9 **Q.** Good correction. Thank you.

10 Did you ever confirm that the information for
 11 which Wikipedia was relied on for an authority was false?

12 **A.** I don't recall ever having reviewed the
 13 Wikipedia page that was cited.

14 **Q.** Was there any evidence, to your knowledge, that
 15 the information for which Wikipedia was invoked as an
 16 authority was somehow false?

17 **A.** Could you repeat the question?

18 **Q.** Sure. Let me do a little more work here.

19 You were being bombarded by emails, messages,
 20 that this was a controversy, correct?

21 **MR. WALTON:** Form.

22 **Q.** That there was something wrong with Volume 12
 23 of the JSS?

24 **A.** I was receiving emails.

25 **Q.** And one of the criticisms in these emails was

1 Q. It doesn't say that, though, does it? It
2 says it was not his job to censor people, right?

3 A. That's what the text says.

4 Q. Isn't that right? It's not the job of an
5 editor to censor people, correct?

6 MR. WALTON: Form.

7 Q. Is there something funny about that question?

8 Is there a reason you are smiling?

9 A. Um.

10 MR. ALLEN: Do you have something to
11 say, Renaldo?

12 MR. STOWERS: We can go off the record.

13 MR. ALLEN: We can go off the record,
14 please.

15 THE VIDEOGRAPHER: We're off the record at
16 4:05 p.m.

17 (Recess taken)

18 THE VIDEOGRAPHER: We're back on the
19 record at 4:05 p.m.

20 MR. WALTON: Object to the form of the
21 question. It's badgering to the witness.

22 Q. Were you smiling when you read that,
23 Dr. Brand?

24 A. I was.

25 Q. Did me pointing that out seem offensive to you?

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1 A. It did not seem offensive, no.

2 Q. So I just asked if you found it funny.

3 A. I don't find it funny.

4 Q. So I'm asking, especially at a state
5 university, isn't it correct that the job of an
6 editor is not to censor people?

7 MR. WALTON: Form.

8 Q. I know this is getting long in the tooth,
9 but he's pointing out I'm asking a double negative
10 question, so let me try to rephrase that.

11 It's correct -- it's correct, that especially
12 at a state institution, it is not the job of an editor to
13 censor people, correct?

14 MR. WALTON: Form.

15 A. The job of an editor is to provide critical
16 feedback.

17 Q. Did you see any evidence that critical feedback
18 was not provided to the authors of the
19 Symposium other than whatever Levi Walls was posting
20 on Facebook?

21 A. Other than Levi Walls' post on Facebook, I have
22 not seen evidence that authors in that volume of
23 JSS were not receiving critical feedback.

24 MR. ALLEN: Sorry, Dr. Brand. I'm looking
25 for an exhibit that I wanted to show you. I'm going to

BENJAMIN D. BRAND, Ph.D. 09/23/2024

APPX.041

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1 mark for the record as Exhibit Number 8. This is an
2 email from you, Professor Brand, to Timothy Jackson
3 titled Follow-Up, from December 11th, 2020.

4 A. Um-hum.

(Deposition Exhibit Number 8 marked.)

5 Q. It also has the Bates stamp JACKSON 000272.
6 Do you remember this email, Professor Brand?

7 A. I do.

8 Q. What was the purpose of your writing this email
9 to Timothy Jackson?

10 A. Could you restate the question?

11 Q. What was your purpose of sending this email
12 to Timothy Jackson on December 11th, 2020?

13 A. To clarify and confirm some points that I had
14 made verbally.

15 Q. You had met with Timothy Jackson at this
16 time?

17 A. Over Zoom.

18 Q. Of course. It was the COVID era, right? And
19 was that that same day?

20 A. I don't recall whether it was the same day
21 or not.

22 Q. It was within 24 hours of this date?

23 A. As I recall, it was within 48 hours of the
24 date.

BENJAMIN D. BRAND, Ph.D. 09/23/2024

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1 Q. Fair enough. And you told him that you could
2 not support a plan according to which he would remain
3 involved in the operations of the Journal of Schenkerian
4 Studies, correct?

5 MR. WALTON: Form.

6 A. As written in the email, I did tell him that
7 I couldn't support a plan according to which he would
8 remain in the day-to-day operations of the Journal.

9 Q. And this was based on your reading of the
10 Ad Hoc Panel Report that we had just introduced as
11 Exhibit 7?

12 A. Correct.

13 Q. And he also complained to you in that meeting
14 that he was preparing a response, correct?

15 A. As I recall, he did inform me that he was
16 preparing a response.

17 Q. And in that first sentence after, you know,
18 bullet point Number 3, you say, "You expressed your
19 desire that I read your response to the panel's report
20 before I make any definitive judgments and, of course, I
21 will read your report carefully when I receive it."

22 Did I read that correctly?

23 A. Yes.

24 Q. Did you receive his response?

25 A. I recall receiving his response.

1 UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF
 3 SHERMAN DIVISION
 4 TIMOTHY JACKSON,)
)
 5 Plaintiff,)
)
 6 vs.) CASE NO. 4:21-CV-00033-ALM
)
 7 LAURA WRIGHT, et al.,)
)
 8 Defendants.)

9 REPORTER'S CERTIFICATION OF
 10 ORAL DEPOSITION OF BENJAMIN D. BRAND, Ph.D.
 11 September 23, 2024

12
 13 I, KIM D. CARRELL, a Certified Shorthand Reporter
 14 in and for the State of Texas, hereby certify to the
 15 following:

16 That the witness, BENJAMIN D. BRAND, was duly
 17 sworn and that the transcript of the oral deposition is
 18 a true record of the testimony given by the witness;
 19 That the deposition transcript was duly submitted
 20 on October 21, 2024, to Mr. Benjamin Walton, the attorney
 21 for the defendants, for examination, signature, and
 22 return to me by November 22, 2024, (30 days);
 23 That pursuant to the information given to the
 24 deposition officer at the time said testimony was taken,
 25 the following includes all partes of record and the

BENJAMIN D. BRAND, Ph.D. 09/23/2024

1 amount of time used by each party at the time of the
 2 deposition;
 3 Michael Thad Allen - 03 HRS: 54 MIN
 Benjamin Walton - 00 HRS: 00 MIN

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21
 22 I further certify that I am neither counsel for,
 23 related to, nor employed by any of the parties or
 24 attorneys in the action in which this proceeding was
 25 taken, and further that I am not financially or

1 otherwise interested in the outcome of the action.
 2 Certified to by me on this 21st day of October,
 3 2024.

4
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2		<u>I N D E X</u>
3	TIMOTHY JACKSON, X	PAGE
4	Plaintiff, X	2
5	X	4
6	VS. X CASE ACTION	5
7	X NO.: 4:21-cv-00033-ALM	6
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10		<u>E X H I B I T S</u>
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	24	
	25	

<p style="text-align: center;">17</p> <p>1 journal reviewers knew my name. It's often -- in a small 2 field, it's pretty easy to infer who an author is.</p> <p>3 Q. Sure. So let me just summarize, if possible. 4 A double blind peer-review process means that both the 5 author of an article and the outside reviewers of the 6 author -- of the article remain anonymous to each other, 7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And to the best of your knowledge, these 10 peer-reviewed articles were double blind peer reviewed?</p> <p>11 A. To the best of my knowledge. My expectation is 12 that they were all double blind peer reviewed.</p> <p>13 Q. Have you ever published articles that are not 14 peer reviewed?</p> <p>15 A. Articles, no.</p> <p>16 Q. Textbook chap- -- go ahead. I'm sorry.</p> <p>17 A. On articles, no. I've done some journalistic 18 writing, but that's, I think, a different matter.</p> <p>19 Q. In this book chapter you've listed in your CV, 20 "Consonance and Dissonance," do you see where that is on 21 the -- it looks like second page of Exhibit 2?</p> <p>22 A. Correct.</p> <p>23 Q. Was that peer reviewed?</p> <p>24 A. That was editor reviewed.</p> <p>25 Q. And could you describe that process in brief</p>	<p style="text-align: center;">19</p> <p>1 affiliation with Wesleyan University?</p> <p>2 A. Nope.</p> <p>3 Q. When did your association with Wesleyan end?</p> <p>4 MS. QUIMBY: Objection; form.</p> <p>5 A. My association with Wesleyan University ended 6 when my visiting appointment was over in May -- let's see 7 -- 2019.</p> <p>8 Q. (BY MR. ALLEN) Okay. Sorry if I pause between 9 exhibits. It's because I'm keeping track of them and 10 keeping track of their files names so I can circulate 11 them eventually to the reporter.</p> <p>12 Are you familiar with a music theory journal 13 called <i>Spectrum</i>?</p> <p>14 A. You are referring to <i>Music Theory Spectrum</i>.</p> <p>15 Yes.</p> <p>16 Q. Can you describe what <i>Music Theory Spectrum</i> is 17 for the record, please?</p> <p>18 A. For the record, <i>Music Theory Spectrum</i> is, I 19 believe, one of the official publications of the Society 20 for Music Theory.</p> <p>21 Q. What's the Society for Music Theory?</p> <p>22 A. The Society for Music Theory is a professional 23 society of music theorists.</p> <p>24 Q. Do you belong to the Society for Music Theory?</p> <p>25 A. I am -- I am currently a member of the SMT.</p>
<p style="text-align: center;">18</p> <p>1 for the record?</p> <p>2 A. Editor review is -- is a standard that is often 3 used for edited collections that are published as books 4 where book chapters are solicited from authors by a team 5 of editors, and the pieces are reviewed by the editors.</p> <p>6 Q. And I believe you said you had -- how did you 7 describe your non-peer reviewed publication efforts? 8 Something like journalistic or popular or something of 9 that nature?</p> <p>10 A. Yeah. Journalistic writing.</p> <p>11 Q. Where are those in your CV, if they are?</p> <p>12 A. They should be in other writings.</p> <p>13 Q. Is that this portion on the bottom of Page 2?</p> <p>14 A. Yes. The -- yeah. The bottom two items, in 15 <i>The Wire</i> and <i>icareifyoulisten.com</i>. Yeah. Those are -- 16 those are -- those are journalistic writings.</p> <p>17 Q. And then what is the History of Music Theory 18 blog? You've listed a publication under other writings, 19 "Colonial Organology and Ornithology in Richard Ligon's 20 Acoustics of Anthropological Difference." Did I read 21 that right?</p> <p>22 A. Correct. Yes. That is a blog post that 23 solicits short pieces, short reflections having to do 24 with the history of music theory.</p> <p>25 Q. Okay. Do you retain any kind of institutional</p>	<p style="text-align: center;">20</p> <p>1 That is the Society for Music Theory.</p> <p>2 Q. And I believe you just used its acronym SMT, 3 right?</p> <p>4 A. Uh-huh.</p> <p>5 Q. So if we say "SMT" we'll both understand we're 6 refer to Society for Musical Theory, right?</p> <p>7 A. Correct. Music --</p> <p>8 Q. Thank you. Society for Music Theory just for 9 the record. Thank you.</p> <p>10 A. Correct.</p> <p>11 Q. How important is the Society for Music Theory 12 in your field?</p> <p>13 MS. QUIMBY: Objection; form.</p> <p>14 Go ahead.</p> <p>15 A. It is -- it is the primary U.S.-based 16 professional association and conference organizing body 17 in the field.</p> <p>18 Q. (BY MR. ALLEN) And you consider yourself a 19 music theorist, right?</p> <p>20 A. At times. I certainly --</p> <p>21 Q. How about --</p> <p>22 A. -- teach in the music theory departments.</p> <p>23 Q. Okay. Do you teach classes in music theory?</p> <p>24 A. I teach classes in music theory.</p> <p>25 Q. Did your -- do your publications -- your</p>

<p style="text-align: right;">65</p> <p>1 reaction on Facebook? This is the next email in the 2 chain.</p> <p>3 A. I don't -- I don't recall it, per se. But 4 it's -- it's here in the email thread. Yes, I believe is 5 it.</p> <p>6 Q. And do you have any knowledge of Facebook -- 7 the social media platform Facebook serving any role in 8 the editorial process of journals at the University of 9 North Texas Press?</p> <p>10 A. I know of no such practice.</p> <p>11 Q. Is Facebook a particularly scholarly forum?</p> <p>12 A. It is not.</p> <p>13 Q. And here's the second email from you, I 14 believe, a little bit later in the evening at 8:32. 15 "Please feel free to forward this message to anyone you 16 think would be appropriate." Right?</p> <p>17 A. Correct.</p> <p>18 Q. So is it fair to say that you were bringing 19 your colleagues -- to your colleagues attention this -- 20 what seemed to be a rapidly developing controversy?</p> <p>21 MS. QUIMBY: Objection; form.</p> <p>22 A. Yes. A rapidly developing potential for controversy.</p> <p>23 Q. (BY MR. ALLEN) Okay. Did it develop into a full-blown controversy?</p>	<p style="text-align: right;">67</p> <p>1 ruined before it properly began. I have a family to take 2 care of now. I'm also confused about what exactly people 3 want."</p> <p>4 Did I read that right?</p> <p>5 A. Correct.</p> <p>6 Q. How did you understand what Mr. Walls was 7 particularly afraid of at this time?</p> <p>8 MS. QUIMBY: Objection; form.</p> <p>9 A. With the caveat that, you know, I don't have 10 omniscient access to the internal --</p> <p>11 Q. (BY MR. ALLEN) Sure.</p> <p>12 A. -- cognition of others, I believe that Levi, in 13 his position as student editor or assistant editor or 14 editor of the journal, was worried about being -- 15 being -- about his reputation being jeopardized by 16 association with the -- the controversy in regards to the 17 journal.</p> <p>18 Q. And have you and he talked about that 19 subsequently as his dissertation advisor?</p> <p>20 A. I don't believe so.</p> <p>21 Q. In your role as his dissertation advisor have 22 you witnessed any harm that has come to his career 23 because he participated in the <i>Journal of Schenkerian Studies</i>?</p> <p>25 MS. QUIMBY: Objection.</p>
<p style="text-align: right;">66</p> <p>1 MS. QUIMBY: Objection; form.</p> <p>2 A. I think that most people would agree that it 3 developed into -- into a point of contention, yes.</p> <p>4 Q. (BY MR. ALLEN) Thank you. So here's an email 5 on July 25 at about 9:00, 8:55 p.m., by Levi Walls. Do 6 you see that email in Exhibit 5?</p> <p>7 A. Yes.</p> <p>8 Q. And this is a student who would become your 9 graduate student or at least in your role as a 10 dissertation advisor. Can I ask you to read that email 11 carefully, please?</p> <p>12 A. Okay. I'm finished reading.</p> <p>13 Q. Sure. I just have a question in the first 14 sentence. Well, in the second sentence actually. He 15 says, "I just heard about this." Referring to what you 16 and Ellen Bakulina have identified. Is that your 17 understanding of the email?</p> <p>18 A. Correct.</p> <p>19 Q. Would you have received this email at the time?</p> <p>20 A. I believe I did receive this, yes.</p> <p>21 Q. I only ask because, unlike some of the other 22 emails, it doesn't seem to have the full received line on 23 it.</p> <p>24 He then goes on, Mr. Walls, to say, "It's very 25 worrying, especially as I don't want my career to be</p>	<p style="text-align: right;">68</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. (BY MR. ALLEN) And did you understand this 3 email to be expressing his fear of some sort of, quote, 4 power differential between him and Professor Timothy 5 Jackson?</p> <p>6 MS. QUIMBY: Objection; form.</p> <p>7 A. Power differential? I mean, there's always a 8 power differential between students and professors. 9 That's understood.</p> <p>10 Q. (BY MR. ALLEN) Sure. Do you -- do you 11 understand him to be expressing in this email, especially 12 did you understand at the time -- let me strike that 13 question, ask this.</p> <p>14 Did you understand at the time that Mr. Levi 15 Walls was objecting to a so-called power differential 16 between him and Professor Jackson in this email?</p> <p>17 MS. QUIMBY: Objection; form.</p> <p>18 A. In this email I don't recall -- I -- I don't 19 believe that he was expressing sentiments related to a 20 power differential, no.</p> <p>21 Q. (BY MR. ALLEN) Picking up on what you said 22 about the inherent difference between a dissertation 23 advisor and the student, the graduate student, that 24 there's an inherent power differential, that so-called 25 power differential exists between you and Mr. Walls now,</p>

<p>69</p> <p>1 right?</p> <p>2 A. In any student-teacher relationship, a power</p> <p>3 differential exists.</p> <p>4 Q. Sure. Is it your experience of Professor</p> <p>5 Walls -- excuse me. Strike that, please.</p> <p>6 Is it your experience of Mr. Walls that this</p> <p>7 power differential prevents him from exercising his own</p> <p>8 agency in your relationship to him?</p> <p>9 MS. QUIMBY: Objection; form.</p> <p>10 A. I mean, strictly speaking -- strictly speaking,</p> <p>11 no. But teachers are -- you know, teachers are</p> <p>12 considered -- are considered influential authorities on</p> <p>13 topics. Students often feel pressure to take the advice</p> <p>14 or take the recommendations of their professors.</p> <p>15 Q. (BY MR. ALLEN) I'm talking about your direct</p> <p>16 experience of Mr. Walls. In your experience with him as</p> <p>17 his dissertation advisor, do you feel that he's reluctant</p> <p>18 to speak his mind to you?</p> <p>19 A. Not more than any other students. I -- you</p> <p>20 know, students choose their words carefully around their</p> <p>21 advisors if they're -- if they are smart. As they would</p> <p>22 with any authorities in a supervisory capacity over them.</p> <p>23 Q. And when you were a graduate student at Yale,</p> <p>24 did this power differential affect you in your</p> <p>25 relationship with your dissertation advisor?</p>	<p>71</p> <p>1 independent will when he worked with [audio cut out]?</p> <p>2 THE REPORTER: You cut out at the end.</p> <p>3 MR. ALLEN: Let me rephrase.</p> <p>4 Q. (BY MR. ALLEN) Did you have any reason to</p> <p>5 believe, at the time these emails were being sent back</p> <p>6 and forth, that Mr. Walls was bereft of his independent</p> <p>7 will in working with Professor Jackson?</p> <p>8 MS. QUIMBY: Objection; form.</p> <p>9 A. I have no knowledge of the dynamics of -- of</p> <p>10 Professor Jackson's advisory -- dissertation advisory</p> <p>11 capacity, dissertation relationship -- dissertation</p> <p>12 advisory relationship with Levi Walls.</p> <p>13 Q. (BY MR. ALLEN) In these emails that were</p> <p>14 exchanged back and forth in which Mr. Walls took part,</p> <p>15 did you have reason to believe that he had been bereft of</p> <p>16 his own independent will in his work on the <i>Journal of</i></p> <p>17 <i>Schenkerian Studies</i>?</p> <p>18 MS. QUIMBY: Objection; form.</p> <p>19 A. I do not believe that he was bereft of his own</p> <p>20 independent will.</p> <p>21 Q. (BY MR. ALLEN) Thank you. And just to follow</p> <p>22 up on your relationship with Mr. Walls, how close would</p> <p>23 you describe your relationship with mentee and advisee of</p> <p>24 Mr. Walls at this time?</p> <p>25 A. Somewhat close. We correspond maybe once a</p>
<p>70</p> <p>1 MS. QUIMBY: Objection; form.</p> <p>2 A. Of course. This power differential, like I</p> <p>3 said, is in every student-teacher relationship.</p> <p>4 Q. (BY MR. ALLEN) Would you state for the record</p> <p>5 whether you believe that, quote, power differential</p> <p>6 affected your ability to think independently in your own</p> <p>7 dissertation</p> <p>8 MS. QUIMBY: Objection; form.</p> <p>9 A. I don't believe that it affected my ability to</p> <p>10 think independently. But, of course, I received advice</p> <p>11 and cautions that I would not have known to be cognizant</p> <p>12 of from the dissertation advisor who I had who was in a</p> <p>13 position of greater power over me in that relationship.</p> <p>14 Q. (BY MR. ALLEN) Is it fair to say that's</p> <p>15 inherent in the mentor/mentee relationship?</p> <p>16 A. That is inherent to the mentor/mentee</p> <p>17 relationship.</p> <p>18 Q. So your answer is yes?</p> <p>19 A. Yes.</p> <p>20 Q. Thank you. And just back to Mr. Walls, you</p> <p>21 don't -- you don't have any reason to think that he's so</p> <p>22 weak that he has no independent will as your dissertation</p> <p>23 advisee, do you?</p> <p>24 A. I have no reason to believe such a thing.</p> <p>25 Q. Did you ever witness him to be bereft of an</p>	<p>72</p> <p>1 month, once every two months.</p> <p>2 Q. I assume you have a residence somewhere in the</p> <p>3 -- in the Denton area near the University of North Texas,</p> <p>4 correct?</p> <p>5 A. At the moment, no.</p> <p>6 Q. While you were teaching at the University of</p> <p>7 North Texas, do you live in the Dallas area?</p> <p>8 A. While teaching and -- so not -- meaning not</p> <p>9 this year, prior to this year --</p> <p>10 Q. Yes.</p> <p>11 A. -- and after this year, yes, I have had a</p> <p>12 residence in -- around Dallas.</p> <p>13 Q. Have you had Mr. Walls over to your home?</p> <p>14 A. Nope.</p> <p>15 Q. Have you ever visited Mr. Walls at his home?</p> <p>16 A. Nope.</p> <p>17 Q. Do you primarily meet in your office at UNT?</p> <p>18 A. Primarily, yes.</p> <p>19 Q. Is Mr. Walls in residence at the -- in Dallas?</p> <p>20 A. Currently, no.</p> <p>21 MS. QUIMBY: Object to form.</p> <p>22 Q. (BY MR. ALLEN) Where is he now?</p> <p>23 A. Mr. Walls is in residence in California while</p> <p>24 writing his dissertation.</p> <p>25 Q. And do you know when he left for California?</p>

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2
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4
5
6 I, ANDREW JAY CHUNG, have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except as noted above.
7
8
9

10 ANDREW JAY CHUNG
11
12 STATE OF _____
13 COUNTY OF _____
14
15 Before me, _____, on this day
personally appeared ANDREW JAY CHUNG, known to me (or
proved to me under oath or through
_____) (description of identity
card or other document)) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that they executed the same for the purposes and
consideration therein expressed.
16
17 Given under my hand and seal of office this
18 day of _____, _____.
19
20
21 NOTARY PUBLIC IN AND FOR
22 THE STATE OF _____
23 COMMISSION EXPIRES: _____
24
25

150
1 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
2 SHERMAN DIVISION
3
4 TIMOTHY JACKSON, X
X
5 Plaintiff, X
X
6 VS. X CASE ACTION
X NO.: 4:21-cv-00033-ALM
7 LAURA WRIGHT, ET AL., X
X
8 Defendants. X

9
10 REPORTER'S CERTIFICATION
11 DEPOSITION OF ANDREW JAY CHUNG
12 October 15, 2024
13 (Reported Remotely)
14
15
16 I, Jennifer L. Sanders, Certified Shorthand
17 Reporter in and for the State of Texas, hereby certify to
18 the following:
19 That the witness, ANDREW JAY CHUNG, was duly
20 sworn by the officer and that the transcript of the oral
21 deposition is a true record of the testimony given by the
22 witness;
23 That the deposition transcript was submitted on
24 _____ to Ms. Mary Quimby, attorney for
25 ANDREW JAY CHUNG, for examination, signature and return
to me by _____;

151
1 That the amount of time used by each party at
the deposition is as follows:
2 MR. MICHAEL THAD ALLEN: 3 Hour(s), 10 Minute(s)
3
4
5 That pursuant to information given to the
6 Deposition officer at the time said testimony was taken,
7 the following includes counsel for all parties of record:
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19 That \$ _____ is the deposition officer's
20 charges to Mr. Michael Thad Allen, Attorney for
21 Plaintiff, for preparing the original deposition
22 transcript and any copies of exhibits;
23 I further certify that I am neither counsel
24 for, related to, nor employed by any of the parties or
25 attorneys in the action in which this proceeding was

152
1 taken, and further that I am not financially or otherwise
2 interested in the outcome of the action.
3 Certified to by me this _____ day of
4 _____, _____.
5
6
7 JENNIFER L. SANDERS, CSR No. 5091
8 Expiration Date: 10/31/26
9 JULIA WHALEY & ASSOCIATES
10 2012 Vista Crest Drive
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13 214-236-6666 (Fax)

Jennifer Cowley 09/26/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
3 TIMOTHY JACKSON,
4 Plaintiff,
5 VS.
6 LAURA WRIGHT, ET AL.,
7 Defendants.

10 ORAL AND VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
11 JENNIFER COWLEY
12 SEPTEMBER 26, 2024

16 ORAL AND VIDEOTAPED VIDEOCONFERENCE
17 DEPOSITION of JENNIFER COWLEY, produced at the instance
18 of the Plaintiff, and duly sworn, was taken in the
19 above-styled and numbered cause on the 26th day of
20 September, 2024, from 9:04 a.m. to 2:58 p.m., before
21 Carla A. Sims, AAS, CSR, RPR, in and for the State of
22 Texas, reported by method of machine shorthand, via Zoom
23 videoconference, pursuant to the Federal Texas Rules of
24 Civil Procedure and the provisions stated on the record
25 or attached hereto.

Jennifer Cowley 09/26/2024

2

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3 ZOOM VIDEOCONFERENCE

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13 REPORTER'S NOTE

14 Please note that due to the quality
15 of the transmission data for a Zoom videoconference,
16 cross-talk causes audio distortion in the testimony when
17 preparing a videoconference transcript.

18

19 EXHIBITS

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1 **A.** It could be professional if their concerns are
 2 related to the nature in which the publication was
 3 produced.

4 **Q.** (By Mr. Allen) You called for Professor Jackson
 5 and the -- well, let me strike that.

6 **You called for the Journal of Schenkerian
 7 Studies to be investigated, right?**

8 **A.** I formed an ad hoc review panel to review the
 9 concerns raised by the Society for Music Theory.

10 **Q.** So you were investigating the Society for Music
 11 Theory?

12 MS. QUIMBY: Objection, form.

13 **A.** No. To clarify, the Society for Music Theory
 14 raised concerns about the production process for Volume
 15 12 of the Journal of Schenkerian Studies. I formed an ad
 16 hoc panel to review the concerns that were raised and
 17 determine and make recommendations.

18 **Q.** (By Mr. Allen) And your understanding of their
 19 concerns were only that it was produced in an
 20 unprofessional manner?

21 MS. QUIMBY: Objection, form.

22 **A.** That was the charge that I gave to the
 23 committee.

24 **Q.** (By Mr. Allen) I'm not asking that. I said the
 25 Society for Music Theory, your understanding of their

1 **Q.** (By Mr. Allen) I'm sorry. Could you state your
 2 answer? It was just spoken over just by accident. What
 3 was your answer?

4 **A.** Correct.

5 **Q.** Thank you. You wanted the so-called ad hoc
 6 panel to investigate the Journal of Schenkerian Studies,
 7 correct?

8 **A.** I requested that the ad hoc panel review the
 9 production of Volume 12 of the Journal of Schenkerian
 10 Studies.

11 **Q.** And you specifically instructed them to do so
 12 objectively, right?

13 **A.** You would have to refer to the specific charge
 14 that I gave to the committee.

15 **Q.** As you sit here today, you can't remember
 16 instructing them to conduct an objective investigation?

17 **A.** I would want to look at the specific charge.
 18 But the general intention was that they would conduct a
 19 review of the production process, focusing on the process
 20 and procedures that were used to produce the journal.

21 **Q.** Did you -- so that again wasn't my question.
 22 And this will take a lot less time if you would answer my
 23 question instead of answering the question that you
 24 apparently want to answer.

25 I asked about objectivity; do you understand

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1 concerns were that -- were solely that the journal was
 2 not produced in a professional manner?

3 **A.** They had broader concerns. The concerns that I
 4 chose to charge the ad hoc committee with were
 5 exclusively related to how the journal was produced.

6 **Q.** What were their broader concerns, President
 7 Cowley?

8 **A.** I would have to go back and review their
 9 specific letter that they submitted to the university.

10 **Q.** As you sit here today, you can't remember
 11 their, quote, "broader concerns," closed quote, as you
 12 just characterized them?

13 **A.** My recollection was they raised concerns
 14 specific to the journal's publication process and that
 15 there were concerns regarding some of the journal
 16 articles.

17 **Q.** What were their concerns concerning some of the
 18 journal articles?

19 **A.** Again I would have to go back and look at that
 20 specific letter that was submitted.

21 **Q.** As you sit here today, you can't remember what
 22 their broader concerns are or were? That's your
 23 testimony today?

24 MS. QUIMBY: Objection.

25 **A.** Correct.

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1 where it's talking about the objectivity of the
 2 investigation. And my question is you don't remember
 3 instructing them to give an -- to undertake an objective
 4 investigation?

5 MS. QUIMBY: Objection, form.

6 **A.** Again I would want to review the specific
 7 charge that I gave to the ad hoc panel to determine
 8 whether I used the word objective.

9 **Q.** (By Mr. Allen) As a provost instructing a
 10 faculty panel to undertake any investigation, were you
 11 indifferent to whether they did it objectively or not?

12 **MS. QUIMBY:** Objection, form.

13 **A.** The expectation is that they would undertake a
 14 reasonable review of the matter and draw reasonable
 15 conclusions.

16 **Q.** (By Mr. Allen) As you used the word, quote,
 17 "reasonable," is that the same as objective in your view?

18 **A.** You haven't defined the word objective.

19 **Q.** Well, that's what I'm trying to ask you about.
 20 What do you understand by an objective investigation,
 21 President Cowley?

22 **MS. QUIMBY:** Objection, form.

23 **A.** An objective investigation would review
 24 relevant materials and draw reasonable conclusions based
 25 on the information that they have gathered in that review

1 for the Journal of Schenkerian Studies than there are for
2 Theoria?

3 MS. QUIMBY: Objection, form.

4 A. Different journals will choose different forms
5 of publication whether they're editorial reviewed or peer
6 reviewed and have, you know, a breadth of ways of
7 communicating. Should they all do that in a professional
8 way? Yes.

9 Q. (By Mr. Allen) Should they be subjected to the
10 same standards by the University of North Texas press?

11 MS. QUIMBY: Objection, form.

12 A. What do you mean by standards?

13 Q. (By Mr. Allen) Well, I don't know. You went in
14 and, you know, investigated one journal but not the
15 other. That's clear, right? As you just said, you just
16 testified to that.

17 A. The reason we investigated the Journal of
18 Schenkerian Studies is because the Society of Music
19 Theory raised explicit concerns regarding the production
20 of Volume 12 of the Journal of Schenkerian Studies. If
21 any professional society wrote to the university
22 expressing concerns over a publication, then it likewise
23 would have received an investigation.

24 MR. ALLEN: I'm going to move to strike
25 that answer as completely nonresponsive.

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1 Q. (By Mr. Allen) If you could focus on the
2 question I'm asking, it would go a lot faster. I know
3 you had the Journal of Schenkerian Studies investigated,
4 and you didn't have the Journal of Theoria investigated.
5 We just have already established that. What I'm asking
6 is there was an outcome by the ad hoc panel about the
7 Journal of Schenkerian Studies, right?

8 A. The outcome was recommendations for how the
9 Journal of Schenkerian Studies could improve.

10 Q. Okay. And should those same standards of
11 publication be applied to all journals in the College of
12 Music?

13 MS. QUIMBY: Objection, form.

14 A. I can't speak to other journals in the College
15 of Music because I'm not familiar with what standards or
16 approach they use.

17 Q. (By Mr. Allen) Would it be okay under your
18 leadership as provost for there to be double standards?
19 One standard for the Theoria and one standard for the
20 Journal of Schenkerian Studies?

21 MS. QUIMBY: Objection, form.

22 A. There are different forms of publication. I
23 have no knowledge of whether or not these other journals
24 that you speak of have a peer review practice or other
25 practices.

1 Q. (By Mr. Allen) So that was never of concern to
2 you that there might be double standards in the College
3 of Music?

4 MS. QUIMBY: Objection, form.

5 A. My concern was specific to the Journal of
6 Schenkerian Studies and the concerns raised by the
7 Society of Music Theory.

8 Q. (By Mr. Allen) And, you know, while you might
9 guess by the title Theoria that Theoria is a journal of
10 music theory, right?

11 A. But is --

12 Q. It's sort of in the title.

13 A. But music theory did not raise concerns about
14 Theoria.

15 Q. Right. You said that, I think, about six
16 times. My question is very different though. Should
17 both journals of music theory be abiding by the same
18 standards that are imposed by the University of North
19 Texas?

20 MS. QUIMBY: Objection, form.

21 A. I don't know what standards Theoria uses, so I
22 can't speak to that with more specificity.

23 Q. (By Mr. Allen) And you remain completely
24 uncurious about it too, don't you?

25 MS. QUIMBY: Objection, form.

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1 A. Mr. Allen, I don't work for the University of
2 North Texas anymore. My concerns at the present day are
3 focused on my own institution that I work at today.

4 Q. (By Mr. Allen) And it wouldn't bother you as
5 provost that Theoria went along its merry way doing the
6 same things that the Journal for Schenkerian Studies had
7 done so long as the Society for Music Theory never
8 complained? That's your testimony today?

9 MS. QUIMBY: Objection, form.

10 A. Each of our faculty members is expected to
11 behave in professional ways and uphold standards of their
12 disciplines. I can't speak to who the person is that's
13 responsible for Theoria or for anything about that
14 journal.

15 Q. (By Mr. Allen) Are you aware that Theoria
16 published articles without per review?

17 A. I'm not. As I have said, I have no knowledge
18 of Theoria other than it is a journal.

19 Q. So if Theoria is publishing articles without
20 peer review, is that something that would have been a
21 concern to you as the provost if you had known?

22 MS. QUIMBY: Objection, form.

23 A. Not necessarily. If they were producing
24 another form of review such as editorial review and doing
25 that in a professional way, that's not at issue.

1 **Q.** But you can't provide an example yourself in
2 your experience as provost, right?

3 **A.** Not off the top of my head.

4 **Q.** Can you provide one in your experience as the
5 President of the University of Texas at Arlington?

6 MS. QUIMBY: Objection, form.

7 **A.** Not off the top of my head.

8 **Q.** (By Mr. Allen) Why did you choose panel members
9 from outside the College of Music?

10 **A.** I purposely chose panel members outside of the
11 College of Music because the content of the journal --
12 journal publications was irrelevant. It was about how
13 the conceptualization and production of the volume
14 occurred.

15 And therefore selecting committee members that
16 were outside of the College of Music, they brought
17 different perspectives and different experiences relative
18 to production of journals and would not be knowledgeable
19 particularly about Schenkerian Studies.

20 **Q.** Was it the content being Schenkerian Studies
21 that you thought was irrelevant to the panel's
22 investigation?

23 MS. QUIMBY: Objection, form.

24 **A.** The charge to the committee was not based on
25 content. Selecting committee members from outside of the

1 **A.** My expectation is that they would collect
2 evidence and conduct interviews that would allow them to
3 draw reasonable conclusions as it relates to the
4 conception and production of this volume.

5 **Q.** Okay. Would that meaning of objectively, as
6 you use it in this statement, would it qualify as
7 objectively doing their business correctly to ignore
8 evidence that key witnesses were lying?

9 MS. QUIMBY: Objection, form.

10 **Q.** (By Mr. Allen) Is that objective?

11 **A.** You would have to provide specific evidence
12 that that was the case.

13 **Q.** So you can't say, as you sit here today,
14 whether the definition of objective investigation, as you
15 set forth in this statement, would basically condone
16 ignoring a witness -- excuse me -- evidence that a
17 witness was lying? Is that your testimony?

18 MS. QUIMBY: Objection, form.

19 **A.** Your statement was unclear.

20 **Q.** (By Mr. Allen) Okay.

21 **A.** It was jumbled.

22 **Q.** Yeah. No. You're right. Let me strike that.
23 Are you able to testify today -- let me strike
24 that again.

25 Is it your testimony today that whatever you

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1 college meant that there was some arm's length distance,
2 and it was unlikely that faculty members and other
3 disciplines would have specific knowledge of the content
4 areas being discussed in the journal.

5 **Q.** (By Mr. Allen) Did you ever consider getting a
6 music theorist from outside the University of North Texas
7 to advise the panel?

8 **A.** I did not.

9 **Q.** And would you answer the same if I said to
10 participate in the panel? You never thought of including
11 an outside music theorist to participate in the ad hoc
12 panel, right?

13 **A.** I considered whether people involved in music
14 should or should not be involved and made the decision
15 that ultimately I felt it was more appropriate to exclude
16 people from the College of Music or music generally.

17 **Q.** And is that -- well, strike that and move on.

18 You also said, The panel members who are
19 outside the College of Music will examine objectively the
20 process followed in the contention and production of
21 Volume 12 of the Journal of Schenkerian Studies.

22 Did I read that correctly?

23 **A.** Correct.

24 **Q.** Are you able to explain now what you meant by
25 objectively?

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1 meant by objectively set forth in this email did not
2 encompass a requirement that the ad hoc panel be
3 attentive to the fact that witnesses were lying to them?

4 MS. QUIMBY: Objection, form.

5 **A.** Participants in the process of being
6 interviewed would be expected to share information that
7 they believe to be truthful, and it would be up to the
8 panel to evaluate the information that they received.

9 **Q.** (By Mr. Allen) So evidence of truth or untruth
10 would be relevant to an objective inquiry, right?

11 **A.** Maybe. Depending on the context.

12 **Q.** It would be important to an objective inquiry
13 not to exclude exculpatory evidence, right?

14 MS. QUIMBY: Objection, form.

15 **A.** I can't speak to that. That's context
16 dependent.

17 **Q.** (By Mr. Allen) What -- in what context for the
18 investigation of activities at the University of North
19 Texas would it be appropriate to ignore exculpatory
20 evidence?

21 **A.** I'm not suggesting it would be.

22 MS. QUIMBY: Objection, form.

23 **A.** We're talking specifically about this
24 investigation and any --

25 **Q.** (By Mr. Allen) No. That's not true. Wait. I

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1 just want to cut you off. I asked you a specific
2 question. Can you name a context in which it would be
3 relevant to ignore exculpatory context in an
4 investigation at the University of North Texas?

5 You supply the context. Enlighten us what
6 context would be appropriate in an objective
7 investigation under your responsibility as provost to
8 ignore exculpatory information?

9 MS. QUIMBY: Objection, form.

10 A. This is your interview. If you want to provide
11 further context, you're welcome to. Otherwise, my answer
12 is no.

13 Q. (By Mr. Allen) Did you expect the ad hoc panel
14 to ignore exculpatory evidence?

15 A. My expectation is that the panel would review
16 evidence that was presented and make determinations that
17 would influence their recommendations.

18 Q. Does this mean you did or did not expect them
19 to ignore exculpatory evidence?

20 MS. QUIMBY: Objection, form.

21 A. The panel was charged with reviewing evidence
22 and determining that it's most relevant to support their
23 recommendations -- to support the formation of
24 recommendations.

25 Q. (By Mr. Allen) Now, you said that the

1 Q. (By Mr. Allen) Was the so-called ad hoc panel
2 following any established process for investigation
3 established by the University of North Texas?

4 A. There are specific -- there are specific
5 processes for certain types of policy violations.
6 However, in this case, at the beginning of the process,
7 it was unclear whether there were or were not any policy
8 violations.

9 Therefore, there was not an established
10 procedure for which one would follow. Hence, I
11 determined the best path forward was to form an ad hoc
12 committee to review this matter.

13 Q. So the very name ad hoc kind of indicates that
14 there was no policy being applied, right?

15 A. I wouldn't draw that conclusion.

16 MS. QUIMBY: Objection.

17 A. But an ad hoc panel or committee are, from time
18 to time, organized by the provost's office or other
19 offices to review a matter that doesn't clearly fall
20 within a specific policy or procedure.

21 Q. (By Mr. Allen) Was there ever a rules violation
22 found by the ad hoc panel?

23 A. The panel did not find that there was a
24 specific policy violation.

25 Q. Did the ad hoc panel find that Timothy Jackson

1 University of North Texas was, quote, "not investigating
2 Timothy Jackson," closed quote, right?

3 A. The charge of the committee was to review the
4 conception and production of Volume 12 of the Journal of
5 Schenkerian Studies. This professor was involved in the
6 journal and so would be part of the review process. But
7 Dr. Jackson himself was not -- the charge was not about
8 Dr. Jackson. It was about the journal.

9 Q. And you've said it's not -- you're not
10 investigating the journal, right? You're just
11 investigating Volume 12. Was that your testimony?

12 A. The conception and production of Volume 12.
13 Q. What policy or rules of the University of North
14 Texas were being followed when this investigation was
15 ordered?

16 MS. QUIMBY: Objection, form.

17 A. Part of this review was to determine whether or
18 not there could have been violations of university
19 policy. University policies are generally fairly broad,
20 and they are not policies specific to journals themselves
21 but could fall under other policies.

22 And so the charge of the ad hoc committee was
23 to make a determination around whether or not there were
24 any issues related to the conception and production of
25 Volume 12 of the Journal of Schenkerian Studies.

1 violated any rules of the university?

2 A. As I mentioned, their charge was not to review
3 Dr. Jackson specifically but to review the production of
4 Volume 12.

5 Q. Can you answer my question, please?

6 A. Can you repeat your question?

7 MR. ALLEN: Can you read the question to
8 the witness, please, Madam Court Reporter?

9 (Requested portion read back)

10 A. Their recommendations were on how the Journal
11 of Schenkerian Studies could be improved, and they were
12 not targeted specifically at Dr. Jackson. They were
13 targeted at how the journal could be improved.

14 Q. Does this mean your answer is, no, they didn't
15 find that he violated any rules?

16 MS. QUIMBY: Objection, form.

17 A. The committee did not state that there were any
18 specific policy violations by Dr. Jackson.

19 Q. (By Mr. Allen) Okay. Thank you. Now, I
20 believe you've testified that the Ad Hoc Panel Report
21 came out on November 25th of 2020, right?

22 A. I don't recall the date, but if you say that's
23 when it is, I have no reason to believe otherwise.

24 Q. And then on September 7th, I believe, in
25 advance of that, did you send a letter to Professor

1 Jackson?

2 A. Do you have a copy of that letter?

3 Q. I'm trying to find it. Yes.

4 MR. ALLEN: I'm going to mark for the
5 record -- now I'm afraid to say where we are.

6 Madam Court Reporter, are we on Exhibit 7?
7 COURT REPORTER: Yes. We are on Exhibit
8 7.

9 MR. ALLEN: Can I mark for the record
10 Exhibit 7, a letter of September 7, 2020.

11 (Deposition Exhibit No. 7 was marked)

12 Q. (By Mr. Allen) And, President Cowley, bear with
13 me. I can't stand when people do this to me, but it's
14 almost inevitable. I've got to scroll through to show
15 you your signature. Okay? So I'm not trying to make you
16 cross eyed.

17 A. That is my signature.

18 Q. So now back to the top. Is it accurate to say
19 that Exhibit 7, the letter of September 7, 2020, is a
20 letter sent by you to Timothy Jackson?

21 A. That's correct.

22 Q. I'm sorry. Did you answer and I didn't hear
23 it?

24 A. Yes. I said that's correct.

25 Q. Okay. I apologize. I think it -- we had a

1 Q. Now, you had the discretion to look into

2 Timothy Jackson's complaints that his colleagues were
3 violating his academic freedom as well, did you not?

4 MS. QUIMBY: Objection, form.

5 A. As the provost, I have the ability to look into
6 concerns that a faculty member may raise.

7 Q. (By Mr. Allen) And you're very concerned to put
8 an end to misinformation and mischaracterization,
9 correct, about this matter, the investigation of the
10 Journal for Schenkerian Studies?

11 A. Into the mischaracterization about the review
12 of Volume 12 of the Journal of Schenkerian Studies.

13 Q. Is this a concern about objectivity you're
14 expressing here in this final sentence? Is that a fair
15 characterization?

16 MS. QUIMBY: Objection, form.

17 A. No.

18 Q. (By Mr. Allen) You raised the issue of the
19 grievance that Timothy Jackson brought to your attention
20 in that letter that we looked at earlier in the
21 deposition which was dated July 31st, 2020, in this final
22 paragraph that begins on this first page, right?

23 A. Are you referring to his claim related to
24 academic freedom?

25 Q. Yes.

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1 little bit of a delay in the audio feed.

2 So here you tell him -- I'm just going to skip
3 down to the third paragraph -- that the university is not
4 investigating him or the journal, correct?

5 A. Can I read that paragraph?

6 Q. Oh, yeah. I'm not trying to rush you.

7 Please, if you want me to reposition it on the page or
8 whatnot, just tell me.

9 A. That's okay. Okay. I've read that paragraph.

10 Q. Okay. And you inform him in the first sentence
11 of that paragraph, The university is investigating
12 neither you nor the Journal of Schenkerian Studies,
13 correct?

14 A. That's what that sentence states.

15 Q. But then you go on to say that it is actually
16 investigating Volume 12, right?

17 A. Correct. That's correct.

18 Q. But somehow that's not investigating the
19 journal, right?

20 A. It's investigating a particular volume of the
21 journal, a particular publication.

22 Q. And you also say here -- and I'm going to take
23 this off -- The university has discretion, if not the
24 obligation, to look into these circumstances, right?

25 A. Correct.

1 A. Okay. Just let me read that paragraph.

2 Q. I'm going to represent that it goes onto the
3 next page here too, so I'll move it up just a bit.
4 There you go. I'm sorry.

5 A. That's okay. I reached the end of that
6 paragraph.

7 Q. I'm calling up the letter. And you -- your
8 statement here is that apparently your counsel, the
9 counsel of the university I assume, pointed out that he
10 could not identify the policy under which he was filing a
11 grievance. He, meaning Timothy Jackson, is that how you
12 understood that sentence?

13 A. Correct.

14 Q. Do you recall that letter referring to the
15 academic freedom policy of the university?

16 A. I recall a policy number, but we'd have to go
17 back and look at the letter.

18 Q. And you're sort of anticipating what I was
19 going to do here is -- this is the letter of July 31st,
20 2020, from the law firm Allen Law, LLC, to you, Jennifer
21 Cowley. Do you remember seeing this exhibit earlier?

22 A. Yes, I do.

23 Q. And I apologize to counsel and to you because
24 of the question we have about numbering. I'm just going
25 to refer to the letter and the record will reflect how it

1 **Q.** Now, do you know if this panel report ever made
2 clear to Timothy Jackson in advance that he would be
3 invited to respond?

4 MS. QUIMBY: Objection, form.

5 **A.** I'm not certain. I know there were some
6 communications such as the letter you showed, but I don't
7 recall specifically.

8 **Q.** (By Mr. Allen) Okay. If that was part of the
9 process of the investigation by the ad hoc panel, would
10 you expect them to put that in the report?

11 MS. QUIMBY: Objection, form.

12 **A.** I would expect that the people that they
13 interviewed as part of their review would be included or
14 referenced in the report.

15 **Q.** (By Mr. Allen) But that's not my question.
16 That he would have a chance to respond to the
17 investigation report. If that was going to be part of
18 the process, would you expect them to put that in the
19 report?

20 **A.** Their charge was to provide recommendations to
21 me on their findings.

22 **Q.** Yeah. They have a section that goes background
23 information and scope of review, right?

24 **A.** Uh-huh.

25 **Q.** You remember reading that, correct?

1 **A.** Yes, I do.

2 **Q.** So this was Exhibit 2 to the Ad Hoc Panel
3 Report, and this is the Executive Board of the Society of
4 Music Theory's statement, right?

5 **A.** Yes. That's what it appears to be.

6 **Q.** And the first line says, The Executive Board of
7 the Society for Music Theory condemns the antiblack
8 statements and personal ad hominem attacks on Philip
9 Ewell perpetuated in several essays included in the
10 symposium on Philip Ewell's 2019 SMT plenary paper
11 published by the Journal of Schenkerian Studies, right?

12 **A.** You read that correctly.

13 **Q.** Did you understand from that -- this is the
14 statement by the SMT which you said prompted you to
15 convene an investigation, right?

16 **A.** Correct.

17 **Q.** And you understood -- well, let me back up.
18 And you read it, I assume, carefully at the time, right?

19 **A.** Correct.

20 **Q.** Did you understand from that headline which we
21 just read, the Executive Board of the Society for Music
22 Theory condemns the antiblack statements and personal ad
23 hominem attacks on Philip Ewell.

24 You understood that as indicating their primary
25 concern was with the procedural methods followed by the

1 **A.** I do. I don't recall the details.

2 **Q.** And here it is on Page 3 to 4 of the report,
3 correct?

4 **A.** Okay, yes.

5 **Q.** Here in our review, To begin, they say we first
6 reviewed the concerns expressed about the journal's
7 editorial and review processes raised in public
8 statements raised by three different groups.

9 And they list them right here, correct?

10 **A.** Yes, they do.

11 **Q.** And you understand there were exhibits attached
12 to the Ad Hoc Panel Report that were actually those
13 concerns, those statements of concern that they just
14 referenced in those three numbered paragraphs?

15 MS. QUIMBY: Objection, form.

16 **A.** Yes. I was aware that those were included as
17 appendices, if you will, to the report.

18 **Q.** (By Mr. Allen) And here is -- I'm sorry if this
19 overlaps. You'll see these stamps at the top of the page
20 or because the document has been filed in court.

21 **A.** Okay.

22 **Q.** Just so I'm clear about that to you. And I'm
23 not arguing that those were part of the document.

24 **A.** Okay.

25 **Q.** Do you see this Exhibit 2 stamp up here?

1 journal in publishing Volume 12?

2 MS. QUIMBY: Objection, form.

3 **A.** That is not the conclusion that I drew.

4 Further down in the statement, it specifically --

5 **Q.** (By Mr. Allen) We'll get there. Don't -- I'm
6 just asking. Look, this will go a lot faster if you just
7 answer the question. In the first sentence, they're
8 primarily concerned with what they call antiblack
9 statements and personal ad hominem attacks, right?

10 **A.** I do not draw the conclusion that that's their
11 primary concern.

12 **Q.** Do you think that by putting it in much larger
13 font that the rest of the statement, that that had no
14 meaning to them?

15 MS. QUIMBY: Objection, form.

16 **Q.** (By Mr. Allen) Is that insignificant to you?

17 **A.** I cannot draw a conclusion about what the SMT
18 executive board thought.

19 **Q.** And you draw no conclusion from the fact that
20 they put that first in their statement?

21 **A.** I did not draw a conclusion from that being the
22 first statement.

23 **Q.** Then the second statement, the executive
24 board -- excuse me. There it is again. Sorry. No, no.
25 This is the second statement.

1 the meeting between Benjamin Brand and Timothy Jackson on
2 December 11, 2020.

3 **A.** So I was aware that there was a conversation
4 and there was a discussion about how editorial duties
5 might be handled moving forward.

6 **Q.** Do you know what -- beyond that general level,
7 do you know concretely what was the outcome? What
8 administrative action was proposed at the meeting?

9 MS. QUIMBY: Objection, form.

10 **A.** From reading this email, it looks like there
11 were several different potential outcomes that were
12 discussed, and so I just knew that there were discussions
13 of options.

14 **Q.** (By Mr. Allen) And one of the options was
15 Number 3 which was a non-option, right? Benjamin Brand
16 says, I cannot support a plan according to which you
17 would remain involved in the day-to-day operations of the
18 journal and its editorial process in particular, given
19 the panel's findings of editorial mismanagement of the
20 acronym JSS.

21 Did I read that correctly?

22 **A.** You did read that correctly.

23 **Q.** And you understood JSS is an acronym for
24 Journal of Schenkerian Studies, right?

25 **A.** Yes. I assume that's the acronym.

1 want to ask you anyway. Did you direct the University of
2 North Texas press to cease publication of the journal?

3 **A.** I did not.

4 **Q.** Okay. And this -- okay. I think that will
5 probably be the last exhibit but -- and I only have one
6 more series of questions, and it might be the last
7 question. Did you have anything to do with the committee
8 allegedly formed to reconstitute the journal at the
9 University of North Texas?

10 MS. QUIMBY: Objection, form.

11 **A.** I have no knowledge of a committee to
12 resubstitute the journal.

13 **Q.** (By Mr. Allen) Let me put it in a different way
14 just to make sure we understand what we're talking about.
15 You were aware that a committee was formed to look for a
16 new editor of some sort?

17 MS. QUIMBY: Objection, form.

18 **A.** I don't know that I knew it was a committee.
19 I knew there was an effort to find an editor for the
20 journal and some kind of call for nominations for
21 editors.

22 **Q.** (By Mr. Allen) And did you have anything to do
23 with that as provost is my question?

24 **A.** I was informed that this was a planned action.

25 **Q.** But it wasn't something your office was

1 **Q.** So did you understand by that, as you sit here
2 today, that Timothy Jackson was going to be removed from
3 the JSS?

4 **A.** What I read from this is that there are several
5 different options that could include housing the journal
6 elsewhere, starting a new journal, finding an editor and
7 chief, that several different options were outlined. I
8 don't know what the choice was in terms of the -- at this
9 time from that meeting.

10 **Q.** So you find that language ambiguous: I cannot
11 support a plan according to which you would remain
12 involved in the day-to-day operations of the journal?

13 MS. QUIMBY: Objection, form.

14 **A.** As I read that, I hear the chair saying that
15 keeping the journal as it is and having him as the editor
16 would not be acceptable to Dr. Brand.

17 **Q.** (By Mr. Allen) Okay. Are you aware that the
18 Journal of Schenkerian Studies has never published again?

19 **A.** I was not aware of that. I was aware that
20 there was a call for editors.

21 **Q.** Were you aware that Dean Richmond testified in
22 open court that the journal had been, quote, "put on
23 ice," closed quote?

24 **A.** No. I was not aware of that.

25 **Q.** Well, I think I know the answer to this, but I

1 **involved in directly?**

2 **A.** No.

3 **Q.** Did you have --

4 **A.** Once the report was issued, the actions to move
5 forward were delegated to the department.

6 **Q.** Okay.

7 MR. ALLEN: Okay. I think I'm going to
8 pass the witness then, Mary, and you can go ahead and --
9 I'm going to take this down too. Excuse me. Do you want
10 to take a break or --

11 MS. QUIMBY: Yeah. Can we just take five,
12 please?

13 MR. ALLEN: Absolutely.

14 VIDEOGRAPHER: Off the record, 2:53.

15 (Recess taken from 2:53 to 2:57)

16 VIDEOGRAPHER: On the record, 2:57 p.m.

17 MS. QUIMBY: Thank you. I will reserve my
18 questions for trial.

19 MR. ALLEN: Okay. President Cowley, thank
20 you so much for spending the time today sitting for
21 deposition.

22 COURT REPORTER: Ms. Quimby, do you want
23 to purchase a transcript?

24 VIDEOGRAPHER: Off the record.

25 COURT REPORTER: We are still on --

1 pages contain any changes and the reasons therefor;
 2 _____ was not requested by the deponent or a party
 3 before the completion of the deposition.

4 That the deposition transcript was submitted on
 5 October 30, 2024, to Ms. Mary Quimby, attorney for the
 6 witness, for examination, signature, and return to me by
 7 the 2nd day of December, 2024;

8 That the amount of time used by each party at the
 9 deposition is as follows:

10 Mr. Michael Thad Allen.....04 HOURS:38 MINUTES
 Ms. Mary Quimby.....00 HOURS:00 MINUTES
 11 Mr. Renaldo L. Stowers.....00 HOURS:00 MINUTES
 Mr. Shelby Boseman.....00 HOURS:00 MINUTES

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Jennifer Cowley 09/26/2024

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5 I further certify that I am neither counsel for,
 6 related to, nor employed by any of the parties or
 7 attorneys in the action in which this proceeding was
 8 taken. Further, I am not a relative or employee of any
 9 attorney of record in this cause, nor am I financially or
 10 otherwise interested in the outcome of the action.
 11 Certified to by me this the 14th day of October,
 12 2024.

13

14

15

16 Carla A. Sims, AAS, RPR
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 17 Expiration Date: 04-30-26
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 20 Firm registration No. 436
 Firm registration Expires 5-31-25

21

22

23

24

25

1 FURTHER CERTIFICATION
 DEPOSITION OF JENNIFER COWLEY

2
 3 The original deposition was/was not returned to the
 4 deposition officer on the _____ day of _____,
 5 20___.
 6 If returned, the attached Changes and Signature
 7 page contains any changes and the reasons therefor;

8 If returned, the original deposition was delivered
 9 to Mr. Michael Thad Allen, Custodial Attorney;
 10 That \$ _____ is the deposition officer's
 11 charges to the Plaintiff for preparing the original
 12 deposition transcript and any copies of exhibits;

13
 14 Certified to by me this _____ day of _____,
 15 20___.
 16
 17
 18

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Rachel Gain 5/19/21

1

Rachel Gain 5/19/21

3

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4
5 TIMOTHY JACKSON,)
6 Plaintiff,)
7 v.) CASE NO.
8 LAURA WRIGHT, et al.,) 4:21-cv-00033-ALM
9 Defendants.)
10 -----
11 ORAL DEPOSITION OF
12 RACHEL GAIN
13 MAY 19, 2021
14 -----
15
16
17 ORAL DEPOSITION OF RACHEL GAIN, produced as a
18 witness at the instance of the Plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on May 19, 2021, from 1:06 p.m. to 2:49 p.m., before
21 Nita G. Cullen, CSR in and for the State of Texas,
22 reported by machine shorthand, at the Law Offices of
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
24 of Dallas, County of Dallas, State of Texas, pursuant to
25 the Federal Rules of Civil Procedure.

Rachel Gain 5/19/21

2

Rachel Gain 5/19/21

4

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19 ALSO PRESENT:
20 MR. TIMOTHY JACKSON
21
22
23
24
25

1 PROCEEDINGS

2 RACHEL GAIN,
3 having been first duly sworn, testified as follows:

4 EXAMINATION
5 BY MS. HARRIS:

6 Q. Okay. Hi, my name is Samantha Harris. I'm one
7 of the attorneys for Dr. Jackson, along with my partner.
8 And have you ever been deposed before?

9 A. No.

10 Q. Okay. So, it's just going to be a
11 conversation, but it is part of the Court record, that's
12 why she's taking these -- you know, these notes. And
13 so, this is testimony that will be part of the case. If
14 at any time anything I'm asking you isn't clear or you
15 need me to clarify or repeat the question, just ask.
16 Your attorney may object from time to time.

17 MS. HARRIS: Are we going to stipulate,
18 you know, the same things that we have in the previous
19 depositions, that objections except as to form
20 objections will be reserved for the time of trial.

21 MR. BOHUSLAV: Yes.

22 Q. (By Ms. Harris) Okay. So, he will object, and
23 that objection will go on the record, but it doesn't
24 change your obligation to answer the question. So, when
25 he objects, it doesn't mean, you know, that you're not

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1 going to answer, it just means that that objection will
2 be noted, and the Judge can decide what to do with it.

3 A. (Witness nods head affirmatively.)

4 Q. So, we'll just start with some background
5 questions. Is there anything that would prevent you
6 from giving truthful testimony here today?

7 A. No.

8 Q. Are you on any medications, or do you have any
9 medical conditions that could potentially interfere with
10 your ability to give truthful testimony?

11 A. Not that I know of, no.

12 Q. Okay. So, just tell me a little bit about your
13 background. Obviously, now, you're a graduate student
14 at UNT, right?

15 A. (Witness nods head affirmatively.)

16 Q. And what, specifically, are you studying?

17 A. I'm studying music theory.

18 Q. Music theory. Okay. Prior to that, where did
19 you go to college?

20 A. I did my undergraduate mostly at the University
21 of Birmingham, with one year at the University of
22 Ottawa, and I did a master's degree in music theory at
23 the University of Western Ontario.

24 Q. Okay. Now, you said you're studying music
25 theory here at the University of North Texas?

5

1 with Volume 12 of the JSS?

2 A. It was, I think, on the Friday evening, which I
3 believe was the 25th of July, 2020.

4 Q. Okay. And how did you hear about it, first?

5 A. On Twitter, people were posting their opinions
6 on it and screen shots of the passages that they were
7 offended by.

8 Q. Okay. Have you read Volume 12 of the JSS?

9 A. I've read most of it.

10 Q. Most of it. Okay. Have you read Dr. Jackson's
11 article?

12 A. Yes.

13 Q. Okay. And have you listened to Dr. Ewell's
14 talk, the talk that prompted --

15 A. Yes.

16 Q. Okay. So, when you said people were tweeting
17 about it, do you remember who specifically was tweeting
18 that you noticed?

19 A. Quite a lot of people. One person comes to
20 mind that I can definitely say did. The first name's
21 Devon. I can't remember the entirety of their surname,
22 but it begins with "C-H". Something like Chalamo or
23 Chalamo (Phonetic).

24 Q. And is that someone who was also a student at
25 UNT?

7

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6

1 A. Yes.

2 Q. What year of the program are you in?

3 A. I just finished my second year.

4 Q. Okay. So, you're in the theory department.

5 Have you met Dr. Jackson before?

6 A. We've been in the same room, I've smiled at him
7 in hallways, but that's the extent of our interactions.

8 Q. Okay. So, would you say your interactions with
9 him have been pleasant or --

10 A. I've had no response from him, so I wouldn't
11 use the word "pleasant". I'd say absence, really.

12 Q. Okay. When did you first learn about the
13 controversy over Volume 12 of the -- I'm going to say
14 the Journal of Schenkerian Studies. If I call it the
15 JSS here on out, will that be clear?

16 A. Yes.

17 Q. And you know what? I see you nodded and said
18 "yes", and that reminds me of one thing I should have
19 said at the beginning of the deposition, is because this
20 is all going on the record, even if it's just a "yes" or
21 "no" answer, always say "yes" or "no", rather than just
22 nodding, which you didn't do, you said "yes", but it
23 made me think of it.

24 A. Okay.

25 Q. So, when did you first learn of the controversy

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8

1 A. No.

2 Q. Okay. So, these were people from outside of
3 the university.

4 A. Yes.

5 Q. Do you know how they learned about the
6 controversy?

7 A. Some of them had a copy of the journal and had
8 read it, and others had seen the journal -- the excerpts
9 that had been sent to them.

10 Q. Okay. And when did you first read Dr.
11 Jackson's article?

12 A. I read the excerpts at the time, and within the
13 next day or two, I read the article.

14 Q. Okay. All right. Terrific. So, you know, I
15 meant to do this before we did the background, but I'm
16 going to just -- so, I'm going to be introducing some
17 documents throughout. They're going to be marked as
18 exhibits.

19 So, any document that I'm going to ask you
20 about, I will give you a copy of to familiarize yourself
21 with it. And the first thing I just want to give you a
22 copy of, and I believe this will be 35, I think, because
23 we're continuing to number the exhibits from previous
24 depositions.

25 This is just the Notice of Deposition that

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1 correct?

2 A. Yes.

3 Q. Okay. The petitions also refer to the past
4 bigoted behaviors of UNT faculty.

5 A. Yes.

6 Q. And you've testified today that you don't have
7 any firsthand knowledge of past bigoted behaviors by UNT
8 faculty.

9 A. Yes.

10 Q. Okay. And this also referred to past racist
11 actions of Dr. Jackson, yes?

12 A. Could you show me where in the document it says
13 that?

14 Q. Sure. It's under -- it is the July 27th
15 petition that's marked Exhibit 3 at the top. Yeah.

16 That one.

17 A. Okay.

18 Q. Says, "Dr. Jackson's actions, both past and
19 present, are racist and unacceptable." So, is it fair
20 to say that you don't have firsthand knowledge of any
21 past racist actions by Dr. Jackson?

22 A. Well, seeing as I've never been in the same --
23 or I've never been in a conversation with him, that
24 would follow, yes.

25 Q. Okay. And in the July 30th version of the

1 A. Yes.

2 MS. HARRIS: Okay. Thanks. That's all.

3 THE WITNESS: Okay. Thank you.

4 MS. HARRIS: Do you have any --

5 MR. BOHUSLAV: No. We'll reserve
6 questions for time of trial.

7 (DEPOSITION ADJOURNED AT 2:49 P.M.)

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Rachel Gain 5/19/21

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1 statement, Dr. Jackson is accused of extortion, correct?

2 A. Where is this?

3 Q. It is on Kohanski 000109, No. 3 under "Calling
4 for Dr. Jackson's Dismissal. Extortion through grade
5 manipulation and threats to students' careers and
6 reputations."

7 A. It does say that.

8 Q. Okay. And is it fair to say that you have no
9 firsthand knowledge of any extortion by Dr. Jackson?

10 A. Yes. I wasn't in the country at the time.

11 Q. Okay. But you did sign your name to a
12 statement asking that Dr. Jackson be fired for all of
13 these reasons, yes?

14 A. Where does it say that he should be fired?

15 Q. "Calling for Dr. Jackson's Dismissal. Dr.
16 Jackson should be removed from the UNT faculty."

17 A. Yes. I signed a statement saying that it was
18 our opinion that he should be fired.

19 Q. Okay.

20 A. Or dismissed, in the words of the statement.

21 Q. Okay. And other than his article in the
22 journal, which you have said you've read, would it be
23 fair to say that you called for his termination with no
24 firsthand knowledge of any of the behaviors specified in
25 this petition?

Rachel Gain 5/19/21

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION

4 TIMOTHY JACKSON,)

5 Plaintiff,)

6 v.) Case No.

7 LAURA WRIGHT, et al,)

8 Defendants.)

9 -----

10 DEPOSITION CERTIFICATE

11 RACHEL GAIN

12 MAY 19, 2021

13 -----

14 I, Nita G. Cullen, Certified Shorthand
15 Reporter in and for the State of Texas, hereby certify
16 to the following:

17 That the witness, RACHEL GAIN, was duly sworn
18 by the officer and that the transcript of the oral
19 deposition is a true record of the testimony given by the
20 witness;

21 I further certify that pursuant to FRCP Rule
22 30(f)(1) that the signature of the deponent:
23 _____ was requested by the deponent or a
24 party before the completion of the deposition and is to

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Rachel Gain 5/19/21

61

1 be returned within 30 days from date of receipt of the
2 transcript. If returned, the attached Changes and
3 Signature Page contains any changes and the reasons
4 therefor;

5 X was not requested by the deponent or a
6 party before the completion of the deposition.

7 I further certify that I am neither attorney or
8 counsel for, nor related to or employed by, any of the
9 parties or attorneys to the action in which this
10 deposition was taken.

11 Further, I am not a relative or employee of any
12 attorney of record in this case, nor am I financially
13 interested in the outcome of the action.

14 Subscribed and sworn to on this 15th day of
15 June, 2021.

16

17

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18 Expiration Date: 08-31-2022

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25

BENJAMIN S. GRAF, Ph.D. 09/23/2024

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)

9 *****
10 VIDEOTAPED ORAL DEPOSITION OF
11 BENJAMIN S. GRAF, Ph.D.
12 September 23, 2024
13 *****

14

15 VIDEOTAPED ORAL DEPOSITION OF BENJAMIN S. GRAF,
16 Ph.D., produced as a witness at the instance of the
17 Plaintiff and duly sworn, was taken in the above-styled
18 and numbered cause on the 23rd day of September, 2024,
19 from 9:03 a.m. to 12:08 p.m., before Kim D. Carrell,
20 Certified Shorthand Reporter in and for the State of
21 Texas, reported by computerized stenotype machine at
22 the University of North Texas System, 801 North Texas
23 Boulevard, Gateway Suite #308, Denton, Texas, pursuant
24 to the Federal Rules of Civil Procedure and the
25 provisions stated on the record or attached hereto.

BENJAMIN S. GRAF, Ph.D. 09/23/2024

2

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BENJAMIN S. GRAF, Ph.D. 09/23/2024

3

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7 Direct Examination by Mr. Allen.....	6	
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10 EXHIBITS		
11 NUMBER	DESCRIPTION	MARKED
12 Exhibit 1	Re-Notice of Taking Deposition.....	40
13 Exhibit 2	Center Review, Reporting	
14	Period: FY2013 - FY2016	
15	(JACKS 067377 - 067401).....	40
16 Exhibit 3	Ad Hoc Review Panel Report	
17	(Exhibit D)	
18	(JACKSON000208 - 000233).....	65
19 Exhibit 4	Material for the Committee	
20	Emails	
21	(UNT 002645 - UNT 002782).....	79
22 Exhibit 5	Email, 7-24-20, Graf to Chung, et al.	
23	(UNT 000439).....	102
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BENJAMIN S. GRAF, Ph.D. 09/23/2024

4

1 Exhibit 6	Screenshot of Facebook Post from Graf to Ewell, 7-25-20.....	104
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3 Exhibit 7	Emails Regarding Meeting With You Monday Sept 14 at Noon	
4		
5	(UNT 002500 - 002505).....	109
6 Exhibit 8	Emails Regarding JSS (JACKS 089828 - 089832).....	114
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8 Exhibit 9	Statement From the MHTE Graduate Students - Confidential	
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11 Exhibit 10	Emails Regarding Faculty Statement on the Recent Issue of JSS	
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1 Journal would want to be able to read and interpret a
2 basic Schenkerian analysis. I think that's reasonable.

3 **Q.** Was there a type-setting of these graphs
4 involved?

5 **A.** Sometimes. Sometimes, yes. It depended on the
6 article.

7 MR. WALTON: Mr. Allen, just for purposes
8 of the record, since we have a witness whose last name is
9 very interesting, can you clarify that these questions
10 you've been asking are graph, G-R-A-P-H?

11 MR. ALLEN: Yes, sorry. And so I believe
12 you'll also note -- and thank you. That didn't even
13 occur to me.

14 **Q.** And I certainly wasn't meaning to pun off your
15 name, Professor Graf. But the way your name is spelled
16 literally means, in German, "count," correct?

17 **A.** Correct, rough translation. Rough translation.

18 **Q.** And graph with a PH has nothing to do with
19 that, correct?

20 **A.** Correct.

21 **Q.** And we've just been talking about the
22 pictograms, if you want to call them that, for these
23 graphs that are made in Schenkerian analysis, right?

24 **A.** Yes.

25 **Q.** Thank you.

1 conversations, what did he say?

2 **A.** I mean, our conversations were very practical.

3 **Q.** Um-hum.

4 **A.** Things like what software would you use to take
5 an article from manuscript through publication.

6 **Q.** And to cut to the chase, was it focused on the
7 craft of publishing these articles?

8 **A.** It was a lot more focused on the craft of
9 publishing the articles than it was the substance or,
10 yeah, the craft of the practical matters.

11 **Q.** At any point in this transition time --

12 incidentally, when was it decided -- so there's a
13 transition period. You announce you are going to
14 withdraw from the Journal. You talked to Benjamin Brand
15 about that in the fall of 2019, correct? And then you
16 have a subsequent meeting -- sorry, I just realized I was
17 relying on you nodding your head.

18 **A.** Correct.

19 **Q.** And then you had a subsequent conversation with
20 Professor Jackson and Professor Slottow?

21 **A.** Correct.

22 **Q.** And that involved, at some point, having these
23 very practical conversations with Levi Walls, correct?

24 **A.** Those happened after.

25 **Q.** And at that time when those happened, what time

1 **A.** Good clarification.

2 MR. ALLEN: Thanks to Opposing Counsel
3 for bringing that up.

4 **Q.** So just back to Levi Walls, do you know what
5 role then he started to play in the Journal going forward
6 from this time where you announced you're stepping back?

7 **A.** Yeah. His role was to take over the reins and
8 communicate with the advisors in order to move forward
9 with the Journal. That's the way I understood it.

10 **Q.** Was there going to be a transition period where
11 you brought him on as a kind of mentor?

12 **A.** I can't remember if it was Dr. Brand or
13 Dr. Jackson and Slottow that asked me to help, but one
14 of those people asked me to help. I can't honestly
15 remember if it was Dr. Brand or Dr. Jackson asked me
16 to show Levi certain things about the Journal.

17 **Q.** Based on your direct experience or
18 conversations with Mr. Walls, did he seem enthusiastic
19 about the new position?

20 **A.** It's hard to say. It's hard to say. I'm not
21 really sure how enthusiastic he was or not.

22 **Q.** Did you have any discussions with him about
23 taking on the new position?

24 **A.** Very few, very few.

25 **Q.** Well, if you can remember back to those few

1 are we talking, if you can remember? What month? What
2 time period?

3 **A.** Let's think. Probably October, beginning of
4 October, I want to say.

5 **Q.** Okay. Did Professor Walls -- excuse me. Did
6 Mr. Walls raise any concerns about a power differential
7 between him and Professor Jackson at that time?

8 **A.** He did not raise them to me specifically,
9 but -- he may have been concerned about it, but he didn't
10 raise it to me.

11 **Q.** Did you raise those issues with him?

12 **A.** If I had any issues, I would have brought them
13 straight to Benjamin Brand.

14 **Q.** Did you?

15 **A.** I want to say that I did.

16 **Q.** And what did you say?

17 **A.** I'm trying to remember the exact conversation.

18 Benjamin Brand and I talked about possibly having some
19 concerns about the editorship of the Journal being under

20 a graduate student. And I left it to his discretion
21 at that point because I didn't feel it was my place

22 to comment any further on it. And it sounded like
23 Dr. Jackson wanted Levi Walls to take over the Journal.

24 That's the best way I can summarize it.

25 **Q.** Did you ever speak in your -- I'm talking about

1 And that's by Levy -- Levi Walls, excuse me.

2 Did I say that right?

3 A. Yes.

4 Q. And he seems to also confirm that the
5 announcement was made that these papers would be
6 published in Spectrum before they were even delivered
7 to the panel.

8 That's what Ellen Bakulina described, correct?

9 A. Yeah, it appears to be in her email.

10 Q. Then do you remember the subsequent discussion,
11 which is continued by Professor Bakulina, about whether
12 to go forward with the JSS call for papers as planned?

13 A. I don't really recall a lot of discussion on
14 it.

15 Q. Okay. And so the next message is
16 December 1st, 4:53 p.m. It seems like some of them
17 either might be unusually stamped or they may be out of
18 order.

19 A. Okay.

20 Q. But I just want to call your attention to the
21 one that begins at the bottom of that page. Do you see
22 that? Ellen Bakulina to Walls, Jackson, Graf, Cubero,
23 Slottow. And this appears to be two different emails.
24 For some reason, Timothy Jackson is listed twice. Do you
25 see that? This is at the bottom of UNT 2657.

BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 A. I see -- oh, yes, I do see that he appears
2 twice there in the "To" line.

3 Q. That's not important. The thing I wanted to
4 call your attention to, is that your correct email there
5 that we discussed earlier?

6 A. That is my correct email.

7 Q. Okay. So whenever that email appears in an
8 email, then you received it, correct?

9 A. Yes.

10 Q. Okay. And Timothy then responds, "All things
11 considered, JSS should go forward with the call as
12 planned."

13 Do you see that subsequent email?

14 A. I do.

15 Q. At 10:06 p.m.?

16 A. Yeah. This is on 2658.

17 Q. And he says -- I'm going to skip down to,
18 oh, geez, to the sixth line, the body of the email that
19 begins on UNT 2658. Do you see that "- and we definitely
20 should publish it" line?

21 A. Yes.

22 Q. So he says, "We definitely should publish it."

23 He then says, "More responses have promised
24 and have even been requested. Therefore, if others are
25 interested in responding, but wish to wait for the

1 published version of Ewell's talk, then they are welcome
2 to do so, and we should be open to publishing additional
3 responses to that version in a subsequent issue after the
4 upcoming one of the Journal of Schenkerian Studies.
5 Best, Tim."

6 Did I read that correctly?

7 A. Yes, you read that email correctly.

8 Q. And do you remember responding to that email?

9 A. I don't really remember it.

10 Q. The next email is from you, correct?

11 A. Yes.

12 Q. Do you believe that is not -- has not been sent
13 by you?

14 A. No, I think I did send that.

15 Q. And you say, "I agree with Tim."

16 Right?

17 A. Um-hum.

18 Q. Did you feel you couldn't say you didn't agree?
19 I mean, strike that question because of the double
20 negative.

21 Did you have any reason to volunteer that
22 information based in coercion of any kind?

23 A. I didn't really feel comfortable elaborating on
24 my personal viewpoint.

25 Q. At that time?

BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 A. At that time, no.

2 Q. Well, I'm asking you to elaborate now. Is
3 there some reason you felt compelled to chime in at that
4 time that said you agree with Tim?

5 A. There's no particular reason either way other
6 than it seemed like this is the way Dr. Jackson wanted it
7 to happen, so I felt it was best for me to follow what he
8 wanted to do at that point.

9 Q. Did you feel you couldn't express dissent?

10 A. To an extent, yeah. I didn't really want to
11 express my dissent.

12 Q. Were you lying when you said you agreed with
13 Timothy Jackson?

14 A. No. I just didn't feel like I could fully
15 express myself.

16 Q. Did you feel the need to express yourself by
17 agreeing with Timothy Jackson at this time when you said
18 you were trying to withdraw as much as possible from the
19 affairs of the Journal?

20 A. I just had a brief, succinct response that I
21 thought was not going to interfere with the affairs of
22 the Journal from my position of trying to take a step
23 back.

24 Q. Let me -- one further question about emails
25 in this body of documents that were considered by the

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1 University of North Texas so-called ad hoc panel.
 2 If you could turn to 2697, please?
 3 **A.** 2697.
 4 **Q.** And I'm going to direct your attention to an
 5 email at the bottom of that page.
 6 **A.** Sure.
 7 **Q.** This appears to be an email from you to
 8 schenker@unt.edu. Or no, I guess it's from
 9 schenker@unt.edu, right?
 10 **A.** It is from the official Schenker email.
 11 **Q.** That was going to be my next question. That
 12 schenker@unt.edu, that's the official email for the
 13 editor?
 14 **A.** I'm not really sure who used that email. On
 15 occasion, I used it as editor, yeah.
 16 **Q.** And is this an email you sent?
 17 **A.** It appears to be something that I sent, yes.
 18 **Q.** And it looks like this is March 14th, 2020, and
 19 things are wrapping up with getting the special Symposium
 20 out for publication.
 21 **A.** Yes, I was trying to collect materials from
 22 some of the authors, it appears.
 23 **Q.** Is that why there are three, 1), 2), 3), sort
 24 of bullet points that you are asking for the final
 25 information?

1 **A.** No.
 2 MR. WALTON: Form.
 3 **A.** I wasn't lying.
 4 **Q.** And you -- finally, you end the email, "Cheers
 5 getting this to press."
 6 Right?
 7 **A.** Yes.
 8 **Q.** You also -- there's an email right below that.
 9 It looks like you write to Barry Wiener. Am I mistaken
 10 about that?
 11 **A.** Let's see.
 12 **Q.** On March 20th.
 13 **A.** On March 20th, Ben Graf wrote to Wiener.
 14 I don't see an email address from that, but...
 15 **Q.** It seems to be copied and pasted into this
 16 massive document that was submitted to the UNT ad hoc
 17 panel. Do you remember writing and corresponding with
 18 Barry Wiener?
 19 **A.** I don't honestly remember the correspondence
 20 with every author, because I was just trying to get them
 21 to sign the forms. You know, my role was very minimal
 22 there at the end, just to get everyone to sign their
 23 forms.
 24 **Q.** Um-hum.
 25 **A.** Get it off to press.

BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 **A.** Yes.
 2 **Q.** And you also say, Levy -- Levi -- excuse me --
 3 "Levi Walls has done excellent work on this volume, and
 4 the Journal will be in good hands as he takes over sole
 5 editorship of the JSS."
 6 Right?
 7 **A.** Yes.
 8 **Q.** Were you impressed with the work of Levi Walls
 9 on the Journal up to this time?
 10 **A.** I was referring to his work on the software,
 11 his familiarity with the process of getting manuscripts
 12 into the correct software formatting.
 13 **Q.** And then you go on -- well, just to follow that
 14 up. And that was all very good work by him, right?
 15 **A.** The way I understood it, he did a good enough
 16 job to take over the reins. And I really felt like I was
 17 done at that point.
 18 **Q.** And you also commented in this sentence
 19 after that.
 20 "In my view, the additional content that we
 21 collected this winter following Ewell's SMT plenary makes
 22 a great addition to an already remarkable publication."
 23 Right?
 24 **A.** Yes. That was a little bit of -- yes.
 25 **Q.** Were you lying?

BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 **Q.** Would you say to an author that you had read
 2 his piece when you didn't read it?
 3 **A.** Possibly.
 4 **Q.** Do you remember doing that for Barry Wiener?
 5 **A.** I really don't remember Barry's article. I
 6 could not cite specific parts of it. But a lot of times,
 7 when I finished out the publication, I would say thank
 8 you for your contribution or something like that.
 9 **Q.** Do you remember telling the ad hoc panel that
 10 you didn't read all of the articles?
 11 **A.** Yes.
 12 **Q.** Was that true?
 13 **A.** That's true. I did not read every article
 14 word-for-word.
 15 **Q.** Was it expected that you would read the
 16 article?
 17 **A.** I don't think there was a clear expectation.
 18 **Q.** Was there a division of labor in the Journal
 19 for the Symposium?
 20 **A.** For the Symposium? Was there a division of
 21 labor? Not really.
 22 **Q.** Do you know if Mr. Walls read all of the
 23 papers?
 24 **A.** I'm not sure.
 25 **Q.** Do you know if Professor Jackson was relying on

1 CHANGES AND SIGNATURE

2 WITNESS: BENJAMIN S. GRAF, Ph.D.

3 DATE: 9-23-24

4 PAGE/LINE CHANGE REASON

5 _____

6 _____

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BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 _____

2 _____

3 _____

4 I, BENJAMIN S. GRAF, have read the foregoing
5 deposition and hereby affix my signature that same
6 is true and correct, except as noted above.8 _____
9 BENJAMIN S. GRAF

10 THE STATE OF _____)

COUNTY OF _____)

11 Before me, _____, on this day
12 personally appeared BENJAMIN S. GRAF, known to me or
13 proved to me on the oath of _____ or
14 through _____ (description of
15 identity card or other document) to be the person whose
16 name is subscribed to the foregoing instrument and
17 acknowledged to me that he/she executed the same for
18 the purpose and consideration therein expressed.
19 Given under my hand and seal of office on this
20 _____ day of _____, _____.
21 _____23 _____
24 NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

1 UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF

SHERMAN DIVISION

3 TIMOTHY JACKSON,)

)

4 Plaintiff,)

)

5 vs.) CASE NO. 4:21-CV-00033-ALM

)

6 LAURA WRIGHT, et al.,)

)

7 Defendants.)

)

9 REPORTER'S CERTIFICATION OF

10 ORAL DEPOSITION OF BENJAMIN S. GRAF, Ph.D.

11 September 23, 2024

12 _____
13 I, KIM D. CARRELL, a Certified Shorthand Reporter
14 in and for the State of Texas, hereby certify to the
15 following:
16 That the witness, BENJAMIN S. GRAF, was duly
17 sworn and that the transcript of the oral deposition is
18 a true record of the testimony given by the witness;
19 That the deposition transcript was duly submitted
20 on October 21, 2024, to Mr. Benjamin Walton, the attorney
21 for the witness, for examination, signature, and return to
22 me by November 22, 2024, (30 days);
23 That pursuant to the information given to the
24 deposition officer at the time said testimony was taken,
25 the following includes all parts of record and the

BENJAMIN S. GRAF, Ph.D. 09/23/2024

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1 amount of time used by each party at the time of the
2 deposition;3 Michael Thad Allen - 02 HRS: 37 MIN
Benjamin Walton - 00 HRS: 00 MIN

4 FOR THE PLAINTIFF:

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22 I further certify that I am neither counsel for,
23 related to, nor employed by any of the parties or
24 attorneys in the action in which this proceeding was
25 taken, and further that I am not financially or

APPX 065

1 otherwise interested in the outcome of the action.

2 Certified to by me on this 21st day of October,
3 2024.

4

5

6

7 Kim D. Carrell, CSR NO. 1184
Date of Expiration: 7-31-26
8 JULIA WHALEY & ASSOCIATES, INC.
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Frank Heidlberger 5/19/21

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4
3 TIMOTHY JACKSON,)
4 Plaintiff,)
5 v.) CASE NO.
6 LAURA WRIGHT, et al.,) 4:21-cv-00033-ALM
7 Defendants.)
8
9

10 -----
11 ORAL DEPOSITION OF
12 FRANK HEIDLBERGER
13 MAY 19, 2021
14 -----
15
16
17 ORAL DEPOSITION OF FRANK HEIDLBERGER, produced as a
18 witness at the instance of the Plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on May 19, 2021, from 9:10 a.m. to 11:56 a.m., before
21 Nita G. Cullen, CSR in and for the State of Texas,
22 reported by machine shorthand, at the Law Offices of
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
24 of Dallas, County of Dallas, State of Texas, pursuant to
25 the Federal Rules of Civil Procedure.

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2

1 APP E A R A N C E S
2
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19
20 ALSO PRESENT:21 MR. TIMOTHY JACKSON
22
23
24
25

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3

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1 PROCEEDINGS

2 FRANK HEIDLBERGER,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. ALLEN:

6 Q. Mr. Heidlberger, my name is Michael Allen. I'm
7 counsel to Timothy Jackson. Have you ever been deposed
8 before, sir?

9 A. No.

10 Q. So, I'm just going to go over a few ground
11 rules. This is a relatively formal conversation. A
12 deposition, although it's taking place in a private
13 office here, is actually an extension of the Court. The
14 purpose of depositions is both to find out what you
15 know, obviously, and also to find out what you would say
16 at trial.

17 I'll start with a few preliminary
18 questions. Is there anything that would prevent you
19 from giving truthful testimony today?

20 A. No.

21 Q. Are you taking any medication that might affect
22 your memory or ability to testify truthfully?

23 A. No.

24 Q. Are you ill in any way?

25 A. I have Type 1 diabetes, that might affect over

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1 sorry.

2 Q. Was this a Jewish composer, by any chance, or
3 something of that nature?

4 A. I can't confirm that.

5 Q. And regardless of the name of the composer,
6 those were archival resources that were located at the
7 center, is that it?

8 A. Again, I am sorry to be unspecific here, but I
9 think so. It could have been related to material that
10 the center has gathered, but I'm not entirely sure.

11 Q. Is it by any chance the name Gunther Raphael?

12 A. Yes. Raphael, yes.

13 Q. Could you pronounce that and spell it for the
14 Court?

15 A. Okay. Gunther Raphael. So, that is G-U-N-T --
16 maybe T-H-E-R, Gunther, and then R-A-P-H-A-E-L.

17 Q. And I guess my last question, I just mean it to
18 be a "yes" or "no" question, if a scholar were to access
19 archival materials of the center and publish something
20 about that, does that make that the center's work, or is
21 that simply the scholar's individual work, in the eyes
22 of the scholarly community in which you're embedded?

23 A. That's not a "yes, no" question.

24 Q. It's good that you point that out. Let me
25 rephrase it. If a scholar accesses the scholarly

1 Benjamin Brand, is that correct?

2 A. Yes.

3 Q. What was your purpose in writing this e-mail to
4 Benjamin Brand? And as part of that explanation, could
5 you explain for the Court who Benjamin Brand is?

6 A. Benjamin Brand is the current chair of the
7 Division of Music History, Theory and Ethnomusicology,
8 and as such, my successor in that field.

9 Q. And what was your purpose in sending him this
10 e-mail?

11 A. I sent this e-mail in consequence of emerging
12 concerns by colleagues, partially expressed in e-mails,
13 partially expressed in -- as far as I remember, in --
14 mostly in Facebook, of which one Facebook post by Ed
15 Klorman came up, who singled out the case as we know it.

16 Publication of JSS articles with
17 problematic formulations, and the reactions to this post
18 as they were posted as comments in the bottom of the
19 Facebook posts saying things like, well, I hate to say,
20 but I'm a UNT alumnus or, look at these guys, their MHT
21 mission statement states that they are fair and
22 non-racist, and then they produce something like that.
23 In other words, the generalization of one
24 particular problematic case as one may interpret that of
25 people involved being interpreted as a general opinion

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1 archives of the center and then publishes something that
2 is the scholar's work on that, is that considered the
3 work of the center?

4 A. No.

5 (DEPOSITION EXHIBIT 25 MARKED.)

6 (MS. HARRIS RE-ENTERS ROOM.)

7 MR. ALLEN: And could I have this exhibit
8 marked as 26?

9 (DEPOSITION EXHIBIT 26 MARKED.)

10 Q. (By Mr. Allen) And please let me know when
11 you've had a chance to examine it.

12 A. Yes.

13 Q. So, these are two documents, and I'm just going
14 to direct your attention to the bottom right of the
15 document. Each one has a UNT number, and I'm just going
16 to represent to you that in the course of litigation,
17 attorneys will mark all exhibits with page numbers that
18 have to do with all the documents produced in the case.

19 So, the UNT designation indicates that this
20 was produced by the University of North Texas as part of
21 this litigation. And I was going to ask you if you
22 recognize these documents, first of all?

23 A. Yes.

24 Q. And I see the date was July 27th, 2020, on
25 Exhibit 26, and it seems to be an e-mail from you to

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1 of the division and the theory area as a whole, which
2 would be a wrong interpretation, and my sense that we
3 have to react against this misinterpretation of the work
4 of my colleagues in the division and in the field.

5 Q. You've mentioned a couple terms that I don't
6 understand, a problematic case or one case that we know
7 of. What are you referring to, when you -- speaking in
8 these general terms?

9 A. Yes. I refer to the case that some articles in
10 the Journal of Schenkerian Studies that represent the
11 colloquium as a response to Phil Ewell were not well
12 edited, not edited to the standards of peer reviewed,
13 scholarly journals, but represent opinions, partially
14 even anonymous opinions in a way that is not appropriate
15 for a scholarly journal.

16 And that's not my opinion. That's what I
17 saw in the reactions -- in the public reactions in the
18 field that this was seen as the problem. So the problem
19 of incorrect handling of editorial procedures of a
20 scholarly journal. It's not a newspaper. It's not an
21 opinion paper.

22 And second, the nature of those problematic
23 statements supporting -- and again, that is the
24 perspective that others implemented into this situation,
25 that the articles do exactly that what Phil Ewell tried

1 to fight, and that is the white framing of music theory
 2 in terms of repertoire, in terms of the interpretation
 3 of repertoire and of methodologies, particularly
 4 Schenkerian analysis. And that is -- yeah. That's my
 5 point.

6 Q. So, I want to ask you, you're referring to the
 7 symposium published in Volume 12 of the Journal of
 8 Schenkerian Studies, correct?

9 A. That is correct.

10 Q. And that is distinct from other articles
 11 published in that very same volume, correct?

12 A. Correct.

13 Q. Let me ask a preliminary question. Have you
 14 ever heard any criticism of articles, besides the
 15 symposium, published by the Journal of Schenkerian
 16 Studies for what you've characterized as incorrect
 17 handling of editorial opinions?

18 A. No.

19 Q. Not even in Volume 12, correct?

20 A. No.

21 Q. And could I ask you, as both an experienced
 22 academic and also as the editor of a journal yourself,
 23 are you aware that journals would publish symposia?

24 A. Yes.

25 Q. Could you give some examples, just based on

1 A. Well, the small scale type of response that I
 2 refer to, I did this in *Theoria* about Aspect of
 3 Historical Music Theory, modal theory of the 16th
 4 century. There are two perspectives as to how much
 5 tonal aspects of music theory has influenced the
 6 understanding of modes, which are a medieval way of
 7 explaining the musical scales, can be seen.

8 And there are basically two opinions, I
 9 guess, or whether this influence of tonal impact us
 10 there. So, I had a discussion like that. So, what I
 11 did is, when I got a response, I said, okay, I will
 12 publish this in the next issue. I informed the author
 13 and told him, okay -- and I informed the -- the
 14 respondent that I will share this answer with the
 15 author, giving him the opportunity to directly respond
 16 to the response.

17 And I got the response, both where I
 18 checked them carefully for accuracy and no personal or
 19 any kind of inappropriate wording and published them
 20 both in the following volume.

21 Q. Did you send them out for peer review?

22 A. No.

23 Q. Have you ever solicited such responses
 24 yourself, as an editor?

25 A. No.

1 your own personal experience?

2 A. It is usually, in a much smaller scale, a
 3 direct response to an article published in a previous
 4 volume, and you open up the perspective for people who
 5 want to respond, usually criticize statements in a given
 6 article, that then causes a response by another author.

7 So, it is not usually a collection of
 8 articles, but a response to previously published
 9 articles in the same journal.

10 Q. Are you aware of journals that would have
 11 published responses to, other than an article published
 12 in a previous volume of the journal, as you've just
 13 characterized it?

14 A. Sorry. Could you repeat this, please?

15 Q. Let me see if I can -- I want to see if I
 16 understand what you said. So, it sounds to me like you
 17 are aware of symposia published by other journals in
 18 which there is a collection of perspectives published in
 19 response to an article, but you characterize the article
 20 as usually in a previous volume of that very self same
 21 journal.

22 A. Yes.

23 Q. And let me pause to ask, can you explain or
 24 state any specific examples of journals that have done
 25 that, that you know of?

1 Q. Have you ever published such a response,
 2 personally, as an author, either in *Theoria* or any other
 3 journal?

4 A. Response to criticism on one of my articles,
 5 yes.

6 Q. Was that peer reviewed?

7 A. No.

8 Q. Was the criticism, to your knowledge, peer
 9 reviewed that you were responding to?

10 A. They were marked as letters to the editor, and
 11 they are usually not peer reviewed, so they were
 12 specifically not articles, but letters.

13 Q. And was that -- incidentally, can you identify
 14 the publication for the Court?

15 A. It was the Journal, the Clarinet, the Journal
 16 of the International Clarinet Association, which is not
 17 a peer reviewed journal.

18 Q. That's not a peer reviewed journal. To your
 19 knowledge, do these kinds of exchanges occur in
 20 otherwise peer reviewed journals?

21 A. Yes, they do.

22 Q. You also raise an issue of scale with regard
 23 to -- is it clear -- if I refer to the Journal of
 24 Schenkerian Studies as JSS, or simply the journal, will
 25 you understand what I'm discussing?

1 **A.** Yes.

2 **Q.** So, in the JSS, you refer to the scale of the
3 symposium. Do I get that -- did I understand correctly?

4 **A.** I used the term the scale merely within the
5 context of the 16th century modal theory that I
6 explained. So the musical scale is usually a number of
7 notes within an octave, either a half tone or a whole
8 tone apart from each other that define various modes.
9 So, it is the interpretation of musical scales. I only
10 used that term in that context.

11 **Q.** I'm glad you cleared that up. And you said
12 that the symposium, which was this collection of papers
13 published in Volume 12 of the journal, was seen by
14 colleagues as supporting exactly the kind of approach to
15 music theory that Philip Ewell was trying to fight.

16 My understanding is that you're referring
17 to Philip Ewell, a professor of Hunter College, and his
18 plenary address to the Society for Music Theory that
19 took place in the beginning of November 2019. Is that
20 correct, just to clear that up?

21 **A.** I think it was in November 2019, if I'm
22 correct. And yes, the answer is yes.

23 **Q.** And is that impermissible to oppose Philip
24 Ewell's scholarship on music theory in the way that it
25 was done in the symposium?

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1 **A.** Absolutely not. If it is done in the right
2 way, I would absolutely support it, and I think it's a
3 healthy way of getting a discourse going or keeping a
4 discourse that was in the field.

5 **Q.** And what specifically, if there was a wrong way
6 that was done in the journal, what specifically was the
7 wrong way, and what was the right way that should have
8 been followed?

9 MR. BOHUSLAV: Objection, compound.

10 **A.** I was present at Phil Ewell's presentation and
11 was delighted by the rhetorical elegance of his
12 presentation, and at the same --

13 **Q.** Go ahead, please.

14 **A.** I was delighted by the rhetorical elegance and
15 his presentations and shocked, at the same time, by his
16 blunt simplification of very complex historical facts.
17 My first private thoughts that I didn't share with
18 anyone was, oh, my God, how will Tim Jackson react to
19 this? He has to react.

20 And so I thought, he has a journal, and he
21 will do the right things to prevent a platform for open
22 discussion of these points.

23 **Q.** Can I interject? Did you just say, "prevent a
24 platform"?

25 **A.** "Provide."

1 **Q.** "Provide." Thank you.

2 **A.** At the same time, I was very concerned and was
3 thinking, oh, my God, hopefully he does it politically
4 correctly with all the steps involved. These were my
5 private thoughts because I know Tim Jackson in the best
6 sense and respect his work. But I knew that needs very,
7 very careful consideration and constant oversight from
8 the highest level; in other words, from Tim Jackson
9 himself.

10 Don't get the student involved and the
11 whatever, you know, lecturer who was the previous editor
12 who was involved in this, and discuss it explicitly with
13 the board. That is major. Even asking to the point
14 just, you know, by courtesy to say, you know, okay,
15 we -- I plan something that might be very controversial.
16 Do you agree with me doing this address to the board
17 members?

18 So, assuming all that, and a very strict
19 selective and peer reviewed process with regard to these
20 responses, because they are not responses, they are on
21 their own right reactive scholarly articles towards the
22 main point of Ewell's statements.

23 Given that, it would be absolutely
24 productive and healthy and correct to do this kind in
25 this journal, which is dedicated to Schenkerian studies.

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1 Unfortunately, in the process of seeing the announcement
2 published, and then seeing, once the volume was
3 published, the introduction to the symposium, I was very
4 disappointed and see that this was not handled
5 correctly.

6 **Q.** And you made a distinction between reactive
7 scholarly articles, not responses. Could you be more
8 specific about what the difference is between those two?

9 **A.** It was my understanding that Dr. Jackson opened
10 up the JSS primarily to write substantial articles about
11 the points that Dr. Ewell raised in his presentation.
12 If I remember correctly, in the call for papers, that
13 was kind of left open in a way that it also could
14 include immediate reactions, which then were published
15 actually as, you know, one, two paragraphs of some sort,
16 what kind of nonsense Ewell's thing is, you know, how
17 productive that kind of publication is is another
18 question. But it -- just from the status and the
19 character of the journal, I assumed that these will be
20 substantial articles.

21 **Q.** Is there any requirement, that you know of,
22 that a journal like the JSS not publish responses to a
23 paper such as Philip Ewell's?

24 **A.** Formally, no.

25 **Q.** You also said that you were at once impressed

1 **Q.** (By Mr. Allen) Did you agree with the
 2 characterization presented in social media about Volume
 3 12 that its articles were racist?

4 **A.** I agreed to the extent that some sections of
 5 specific articles could be interpreted as racist, yes.

6 **Q.** And could you identify, if you can remember,
 7 the explicitly racist statements in some of the
 8 articles? And here I'm quoting from your statement
 9 here, if you look down page -- the page marked UNT 503,
 10 in the middle of that paragraph, it says, "main points
 11 of criticism are the short response time for the call
 12 for papers, the inconsistent solicitation of responses,
 13 and the explicitly racist statements in some of the
 14 articles." So, I'm asking, what would you identify as
 15 the explicitly racist statements in some of the
 16 articles?

17 MR. BOHUSLAV: I'm going to object to you
 18 asking him about a document. Could you show him the
 19 document, please --

20 MR. ALLEN: He has the document.

21 MR. BOHUSLAV: -- you're asking about the
 22 articles?

23 MR. ALLEN: I asked him if he remembers
 24 which statements he's explicitly identifying. I
 25 understand your objection, and it's on the record.

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1 **A.** I can name examples of racist statements, but
 2 I'm not saying in this -- in this text that there are
 3 racist statements in there. I'm saying that these are
 4 main points of criticism in the social media statements.
 5 So, I'm not explicitly agreeing with them. I see that
 6 this -- these points of criticism come up; among them,
 7 the criticism of racist statements.

8 **Q.** (By Mr. Allen) And you did agree, however,
 9 that some of the articles had made racist statements. I
 10 believe you testified about that earlier, correct?

11 **A.** The term "racist" is an inappropriate reduction
 12 of the problem here, and some statements were simply
 13 superficial. And from the perspective of implicit white
 14 supremacy, but not necessarily racist as against a
 15 certain person with a certain background, and that is
 16 maybe implicit of the author, the black music theorist
 17 Ewell.

18 But more obvious, it is the appropriateness
 19 or inappropriateness of statements at stake here. And
 20 that was handled within a very wide range and often
 21 inappropriate range in some of the articles, with one
 22 exception, and that is, unfortunately, Dr. Jackson's
 23 article.

24 When I read it -- sorry. I want to shorten
 25 the answer down here. The third third of the article,

1 roughly, it's a long article, and he put a lot of work
 2 into that. The third third of the article moves from
 3 the genre of a scholarly, well-researched article to an
 4 inappropriate, opinionated, editorial-like statement,
 5 using words like "the blacks", and I'm quoting here,
 6 that are not up to speed, in terms of cultural education
 7 with western music, and bringing in a whole complicated
 8 matter in that of black anti-Semitism, implying that
 9 Ewell has something to do with it, because why would it
 10 be in a response to Ewell's article?

11 And that I thought was not well thought
 12 through, not substantiated by the quotes, even if he
 13 quotes some articles about -- including that Wikipedia,
 14 and should have been seriously edited by somebody
 15 involved in JSS.

16 **Q.** Do you consider that part -- the last third of
 17 the article, I believe you referred to, right?

18 **A.** Roughly.

19 **Q.** Do you consider that last third racist?

20 **A.** I consider it as written so that it can be
 21 interpreted as racist.

22 **Q.** Have you -- in your personal experience with
 23 Timothy Jackson since approximately the year 2000, I
 24 believe, do you have any direct experience of him being
 25 a racist?

Frank Heidlberger 5/19/21

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1 **A.** I think you asked that before, and my clear
 2 answer was no.

3 **Q.** Can I ask, what was the intended effect of
 4 sending these statements to Dr. Benjamin Brand?

5 **A.** Dr. Brand often refers to me as an advisor, as
 6 a senior advisor with difficult decisions to make, and
 7 here I took the initiative to send him some ideas that
 8 might come up in an upcoming discourse. It was just
 9 meant privately and confidentially, as it is shown in
 10 that sense, never that it is published.

11 I wrote this down in five minutes. I had
 12 other things to do, but I saw the Facebook thing that --
 13 the avalanche of trouble coming towards us. And I said,
 14 hey, do something. This is just a summary, take it or
 15 dump it, and, you know, that's all.

16 **Q.** In your experience at UNT, has there ever been
 17 a time before where the department was forced or
 18 decided -- strike that, please.

19 Was there ever a time before at UNT, in
 20 your experience, where the department decided to take
 21 action, purely based on social media reactions to what a
 22 scholar had written?

23 MR. BOHUSLAV: Objection, assumes facts
 24 not in evidence.

25 **A.** I'm not aware of any.

APPX-071

Page 49 to 52 of 87

1 MR. ALLEN: I'm going to mark this as
2 Exhibit 27.

3 (DEPOSITION EXHIBIT 27 MARKED.)

4 Q. (By Mr. Allen) Do you recognize this document,
5 Professor Heidlberger?

6 A. Yes, I think so, yes.

7 Q. And is this an e-mail from Benjamin Brand that
8 you received on July 28th, 2020?

9 A. Yes.

10 Q. And it states, "I think it would be helpful for
11 the two of us to have a meeting with the dean today to
12 discuss what's ongoing at SMT and the possible
13 reputational impact on MHTE and UNT music theory." Did
14 I read that correctly?

15 A. Correct.

16 Q. Did you, in fact, meet with the dean on that
17 day?

18 A. Yes.

19 Q. Can you explain the substance of your meeting
20 with the dean on that day?

21 A. It was an informal meeting by Zoom simply to
22 explain my point of view from inside the field. Both
23 Dr. Brand and Dr. Richmond are from outside the field,
24 are not music theorists, and I'm very familiar with SMT
25 and the persons involved in this kind of discussion.

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1 And this is information we exchanged. This
2 was all. It was not at all discussed what the
3 consequences will be and such because that in due course
4 is a matter of the higher administration and of the
5 dean.

6 Q. And was the information you discussed
7 summarized in your statement that we have examined as
8 Exhibits 25 and 26?

9 A. Yes.

10 Q. But as you just stated, there was no potential
11 action discussed in that Zoom meeting?

12 A. Correct.

13 Q. What did you mean by reputational impact on the
14 MHTE and UNT music theory division?

15 A. Music theory is a comparatively small field,
16 particularly in the level we are playing in this field.
17 There are probably two handfuls of institutions that
18 provide Ph.D.s in music theory, which means they are
19 forming the future generation of professors, and we are
20 competing on that level with schools that are, by
21 nature, of a higher status.

22 I'm talking about flagship schools, like

23 University of Michigan, Florida State University, and
24 then even into the elite schools, like Yale and
25 University of Chicago. And we compete directly with

1 these schools for students and applicants, and it is a
2 small field, everybody knows everybody.

3 And if something goes off track, it
4 immediately damages the field, and not just the field of
5 music theory, but within the institution. And with the
6 situation -- the vulnerable situation we are in as UNT,
7 representing music so much on a national level. And
8 that is something I got very aware of as administrator
9 and was very much eager to protect us, just for the sake
10 of success of our students, our current students, our
11 future students, and our junior faculty.

12 Because by that time we had -- of our
13 eleven full-time music theorists, we have five tenure
14 track people who were scared to death by any kind of
15 this problematic interpretation of what is going on in
16 Denton, Texas.

17 Q. By "problematic interpretation of what is going
18 on in Denton, Texas," do you mean the accusations of
19 racism being leveled against Timothy Jackson,
20 individually?

21 A. Correct.

22 Q. And I see that in this call to a meeting, which
23 resulted in the Zoom meeting, you also attach an SMT
24 announcement from July 27th, 2020. Am I correct to
25 interpret this as a statement by the Society for Music

Frank Heidlberger 5/19/21

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1 Theory, in this exhibit?

2 A. Yes.

3 Q. Were you in communication with the individual
4 at the Society for Music Theory who drafted this
5 statement?

6 A. No.

7 Q. Did they contact you at any time to discuss the
8 developments at the University of North Texas?

9 A. No.

10 Q. How did you come to have this statement?

11 A. In the Facebook post by Ed Klorman, which must
12 have been on this July 27th, where he outlined the case
13 kind of for the Facebook public, but also on other
14 public medium, and I included that in my documentation,
15 one comment was from the current -- or from the back
16 then I think president or board member of SMT saying
17 exactly this, oh, we are preparing a statement. So that
18 was published publicly on Facebook as a comment and
19 that's all where my knowledge comes from.

20 (DEPOSITION EXHIBIT 28 MARKED.)

21 Q. (By Mr. Allen) Professor Heidlberger, do you
22 recognize this document?

23 A. Yes.

24 Q. You have mentioned some of these individuals
25 before, but I'm referring to Nicole Biamonte and Ed

1 Professor Heidlberger, I've shown you Exhibit 32.
 2 Do you have your own copy?
 3 MR. ALLEN: I do, but if you would
 4 characterize the exhibit to the Court, I think it would
 5 help us.
 6 Q. (By Mr. Bohuslav) Okay. I'm showing you
 7 what's been marked as Exhibit 32. I'll represent to
 8 you, it's the faculty statement in July of 2020. Is
 9 that a fair characterization?

10 A. Yes.

11 Q. Okay. When you signed this document, in July
 12 of 2020, did you agree with all the statements it
 13 contains?

14 A. Yes.

15 Q. And to this day, do you continue to agree with
 16 all the statements in that document?

17 A. Yes.

18 MR. BOHUSLAV: Okay. I'll pass the
 19 witness.

20 MR. ALLEN: No further questions. We can
 21 close the deposition.

22 (DEPOSITION ADJOURNED AT 12:09 P.M.)

23

24

25

1 be returned within 30 days from date of receipt of the
 2 transcript. If returned, the attached Changes and
 3 Signature Page contains any changes and the reasons
 4 therefor;

5 X was not requested by the deponent or a
 6 party before the completion of the deposition.

7 I further certify that I am neither attorney
 8 or counsel for, nor related to or employed by, any of the
 9 parties or attorneys to the action in which this
 10 deposition was taken.

11 Further, I am not a relative or employee of any
 12 attorney of record in this case, nor am I financially
 13 interested in the outcome of the action.

14 Subscribed and sworn to on this 17th day of
 15 June, 2021.

16

17

NITA G. CULLEN, Texas CSR #1563

Expiration Date: 08-31-2022

JULIA WHALEY & ASSOCIATES

Firm Registration No. 436

2012 Vista Crest Drive

Carrollton, Texas 75007-1640

214.668.5578

22

23

24

25

Frank Heidlberger 5/19/21

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE EASTERN DISTRICT OF TEXAS
 3 SHERMAN DIVISION
 4 TIMOTHY JACKSON,)
 5 Plaintiff,)
 6 v.) Case No.
 7 LAURA WRIGHT, et al,)
 8 Defendants.)

9

10

 DEPOSITION CERTIFICATE

FRANK HEIDLBERGER

MAY 19, 2021

11

12
 13
 14
 15 I, Nita G. Cullen, Certified Shorthand Reporter in
 16 and for the State of Texas, hereby certify to the
 17 following:

18 That the witness, FRANK HEIDLBERGER, was duly sworn
 19 by the officer and that the transcript of the oral
 20 deposition is a true record of the testimony given by
 21 the witness;

22 I further certify that pursuant to FRCP Rule

23 30(f)(1) that the signature of the deponent:

24 _____ was requested by the deponent or a
 25 party before the completion of the deposition and is to

Response draft

Heidlberger, Frank <Frank.Heidlberger@unt.edu>

Mon 7/27/2020 4:32 PM

To: Brand, Benjamin <Benjamin.Brand@unt.edu>

1 attachments (151 KB)

Statement draft and ideas.docx;

Dear Benjamin

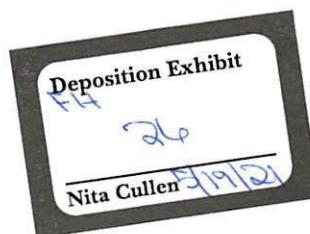
As mentioned I am sending you the attached draft. It is by no means meant as something publishable but includes some thoughts for a specific response about the values and ethics of the MHTE faculty. Recent FB posts indicate that all of us, or at least Theory faculty, could be pulled into a very negative reputation. Phil just posted on FB that he canceled his visit to UNT, quoting his message to Ellen and Stephen, talking about the situation with "your journal." This is why we need to distance ourselves from the journal. If not institutionally since this won't be possible, then individually. I as faculty member do not want to be associated with any of this, damaging my reputation and acceptance in the field. I am afraid that Phil now also withdraws his article from Theoria that was about to be published. I haven't heard from him yet.

Let me know what you think.

[I wanted to edit the draft before sending it to you, but I have something else that needs immediate attention, so please take it as is]

Frank

Dr. Frank Heidlberger
Professor of Music Theory
Music Theory Area Coordinator
University of North Texas
College of Music
1155, Union Circle # 311367
Denton, TX 76203
U.S.A.
Phone: (940) 369-7542
Fax (940) 565-2002



Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas

In light of the current discourse of “White Framing of Music Theory,” the Journal of Schenkerian Studies published response articles about Phil Ewell’s presentation at SMT [title], now also available as an article in MTO [...]. The call for papers, the editorial process and the content of some of the articles published by JSS have been strongly criticized on social media, particularly Facebook and Twitter. Main points of criticism are the short response time for the Call for papers, the inconsistent solicitation of responses, and the explicitly racist statements in some of the articles representing exactly the “white framing” that Dr. Ewell is fighting against. This criticism of the handling of this important topic by the Journal of Schenkerian Studies and the content of some of its responses cannot remain uncommented by the Division of Music History, Theory and Ethnomusicology, which formally houses the Center of Schenkerian Studies and its journal.

The Division, and its theory faculty in particular wishes to clarify that the opinions represented by the Journal of Schenkerian Studies do not represent the work ethics and scholarly standards held up by the faculty as a whole. The theory area and the division is deeply concerned and distances itself from the editorial processing and content of this volume. The upper administration of UNT is aware of the situation and will react appropriately.

The theory area consists of 11 full-time faculty members that perform work on the highest level of scholarly rigor and with a deep understanding of the importance of diversifying the field regarding areas of research and personnel. The Theory area has diversified its curriculum toward non-Western and non-classical music, integrating these topics into its undergraduate core as well as its Master’s and Doctoral programs. The area has successfully implemented a spirit of openness and communication along with its sister disciplines of Musicology and Ethnomusicology, encouraging cross-disciplinary studies related to gender, race and social studies in music. The student body of the UNT College of Music is highly diverse and the MHTE division strongly supports these students in pursuing their goals toward a professional training in music.

Racism and “white framing” do not have a space at UNT and its academic units, as it is expressed in the mission statement of MHTE [...]. The faculty of the theory area, the MHTE Division, and the College of Music of UNT welcomes the critical discourse that supports a strong rejection of any racist or otherwise motivated exclusion of individuals from academia and promotes a diverse approach to its fields and topics.

....

Re: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

Brand, Benjamin <Benjamin.Brand@unt.edu>

Tue 7/28/2020 8:20 AM

To: Heidlberger, Frank <Frank.Heidlberger@unt.edu>

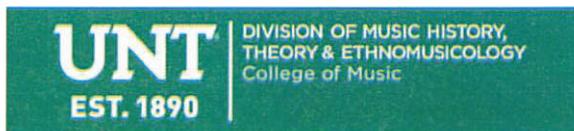
Thanks for this. I think it would be helpful for the two of us to have a meeting with the dean today to discuss what's going on at SMT and the possible reputational impact on MHTE and UNT music theory. Are you free to meet this afternoon?

Benjamin Brand, Ph.D.

Pronouns: he, him, his | Professor of Music History

Chair, Division of Music History, Theory, and Ethnomusicology

College of Music | University of North Texas | (940) 536-3561



From: Frank Heidlberger <Frank.Heidlberger@unt.edu>

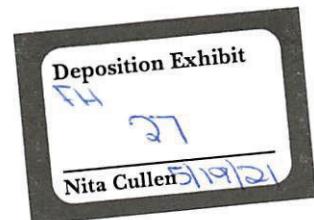
Date: Monday, July 27, 2020 at 10:06 PM

To: "Brand, Benjamin" <Benjamin.Brand@unt.edu>

Subject: Fw: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

In case you haven't gotten this...

Dr. Frank Heidlberger
Professor of Music Theory
Music Theory Area Coordinator
University of North Texas
College of Music
1155, Union Circle # 311367
Denton, TX 76203
U.S.A.
Phone: (940) 369-7542
Fax (940) 565-2002



From: Smt-announce <smt-announce-bounces@lists.societymusictheory.org> on behalf of Society for Music Theory <societymusictheory@gmail.com>

Sent: Monday, July 27, 2020 6:55 PM

To: smt-announce@lists.societymusictheory.org <smt-announce@lists.societymusictheory.org>

Subject: [EXT] [Smt-Announce] SMT Exec Board response to JSS Essays

The Executive Board of the Society for Music Theory condemns the anti-Black statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the "Symposium on Philip Ewell's 2019 SMT Plenary Paper" published by the Journal of Schenkerian Studies.

The conception and execution of this symposium failed to meet the ethical, professional, and scholarly standards of our discipline. Some contributions violate our Society's policies on harassment and ethics.

As reported by participants, the journal's advisory board did not subject submissions to the normal processes of peer review, published an anonymously authored contribution, and did not invite Ewell to respond in a symposium of essays that discussed his own work. Such behaviors are silencing, designed to exclude and to replicate a culture of whiteness. These are examples of professional misconduct, which in this case enables overtly racist behavior. We humbly acknowledge that we have much work to do to dismantle the whiteness and systemic racism that deeply shape our discipline. The Executive Board is committed to making material interventions to foster anti-racism and support BIPOC scholars in our field, and is meeting without delay to determine further actions.

Patricia Hall, President
Robert Hatten, Past-President
Gretchen Horlacher, Vice President
Philip Stoecker, Secretary
Jocelyn Neal, Treasurer
Inessa Bazayev
Anna Gawboy
Julian Hook
Jennifer Iverson
Nancy Yunhwa Rao
Leigh VanHandel

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION
TIMOTHY JACKSON, §
Plaintiff, §
VS. § Civil Action No.
LAURA WRIGHT, et al., § 4:21-cv-00033-ALM
Defendants. §
§

ORAL AND VIDEOTAPED DEPOSITION OF

TIMOTHY JACKSON, Ph.D.

SEPTEMBER 24, 2024

The Oral and Videotaped Deposition of
TIMOTHY JACKSON, Ph.D., produced as a witness at the
instance of the defendants, and duly sworn, was taken in
the above-styled and numbered cause on SEPTEMBER 24,
2024, from 9:07 a.m. to 6:22 p.m., before Nicole A.
Hatler, CSR No. 11275 in and for the State of Texas,
reported by machine shorthand, at the University of
North Texas System, 801 North Texas Blvd, Gateway Suite
308, Denton, TX 76201.

---oOo---

		14		16
<p>1 school. It's, sort of, like a vast -- it's very similar 2 to Harvard.</p> <p>3 Q. Okay.</p> <p>4 A. So I spent three years there getting a 5 bachelor's degree in composition.</p> <p>6 Q. So you got your bachelor's degree in three 7 years?</p> <p>8 A. Yes.</p> <p>9 Q. And then -- now, it seems that at Juilliard you 10 were more focused on piano performance --</p> <p>11 A. Right.</p> <p>12 Q. -- and in college, you were more focused on 13 composition by then.</p> <p>14 A. Right.</p> <p>15 Q. Why the shift?</p> <p>16 A. I always wanted to be a composer, but unlike 17 Mozart, who was already a composer at the age of 6, I 18 was just a pianist as a kid, all right. And I wanted to 19 learn how to compose.</p> <p>20 So I had composed a little bit on the side, 21 and I remember that, in order to apply to McGill, I had 22 to provide a portfolio of compositions. And I did, and 23 I got in. And it was a very, very challenging program, 24 I can tell you. The first day I was in classes, the 25 professor sat with six students who were accepted down</p>		<p>1 Q. Sure.</p> <p>2 A. So I went to the Queens College for two years 3 to get a master's degree.</p> <p>4 Q. So you did get a master's degree from Queens?</p> <p>5 A. Yes.</p> <p>6 Q. And what was that master's degree in?</p> <p>7 A. It was in music theory, but I began in 8 composition. I actually originally applied in 9 composition, but while I was at Queens, I studied with a 10 very famous -- another Schenkerian who was there by the 11 name of Carl Schachter, and I realized that my real 12 interest was in music theory and Schenkerian theory, in 13 particular, so I switched.</p> <p>14 Q. What was it about Schenkerian theory that 15 attracted you?</p> <p>16 A. Well, I believe that Schenker was the Einstein 17 of music theory and that his approach makes it possible 18 to understand music in a certain way that allows us to 19 really understand what the composers were thinking when 20 they wrote the music. So what is the underlying 21 compositional idea? What is the underlying 22 philosophical idea behind the music? That was 23 fascinating to me, so I decided that that was going to 24 be my life's vocation.</p> <p>25 Q. And, sort of, for a laymen who is a</p>		
<p>1 at a table just like this one -- and this was my very 2 first day at university -- and he said, "At the end of 3 the first year, there will be one of you sitting at this 4 table."</p> <p>5 So everybody looked at everybody else like 6 they were on a sinking ship, but I was the only 7 survivor.</p> <p>8 Q. And after three years, when you graduated with 9 your bachelor's, did you go into another graduate study 10 program or did you obtain employment somewhere?</p> <p>11 A. No. I -- I -- it's very hard to get a 12 degree -- I mean to get a job just with a bachelor's 13 degree, especially in this field. So no, I -- I thought 14 about what I wanted to do, and I -- I decided to go to 15 Toronto -- University of Toronto for a year to begin a 16 master's degree.</p> <p>17 And I started studying Schenkerian analysis 18 in Toronto with a very, very amazing teacher by the name 19 of Edward Laufer. And unfortunately, Laufer didn't have 20 his doctorate, so he wasn't allowed to teach graduate 21 courses. So I studied surreptitiously with him. And 22 that's when I decided, with his help, to apply to go to 23 Queens College in New York City.</p> <p>24 And that's when I -- I went, basically. 25 That's when I immigrated from Canada, sort of, de facto.</p>	15	<p>1 nonmusician, certainly a nontheorist, how would you 2 describe Schenkerian analysis in just a couple of 3 sentences?</p> <p>4 A. Well, it's impossible to really describe it. I 5 mean, it's like saying how would you describe 6 Einsteinian physics in a couple of sentences, right. 7 You're not going to learn it while standing on one foot, 8 I can tell you that. And there's an enormous learning 9 curve. It's not something that you can pick up in one 10 semester.</p> <p>11 So it really is a very intricate and 12 technical understanding of music that requires, really, 13 years of study with the very best teachers. And so, 14 some of my teachers said to me that it takes about six 15 years of intense study to get to the point where you're 16 an independent scholar in this field, and I found that 17 to be, basically, true. So it took me about six years 18 of intense study before I really could feel that I knew 19 something about Schenkerian analysis. And I'm still 20 learning, actually.</p> <p>21 Q. So -- so is it fair to say that, in your 22 understanding, Schenkerian analysis is -- is really not 23 something that -- that the average person could 24 understand until they studied it for a long time?</p> <p>25 A. Right.</p>	17	

<p>1 Q. Okay.</p> <p>2 A. That's true. It's like quantum mechanics. You</p> <p>3 know, you can't just walk off the street and understand</p> <p>4 it.</p> <p>5 Q. So after you graduated with your master's at</p> <p>6 Queens, did you pursue any other education or did you</p> <p>7 pursue employment?</p> <p>8 A. No. I was still not ready for the job market.</p> <p>9 So I continued into the graduate center at CUNY, which</p> <p>10 is their doctoral program in music theory. And also</p> <p>11 after spending two -- doing two years of course work</p> <p>12 there, I decided that I wanted to write my dissertation</p> <p>13 on the composer Richard Strauss, who was a famous German</p> <p>14 composer, and also that I wanted to study in Europe</p> <p>15 because I felt that the American system -- or American</p> <p>16 education system, as wonderful as it was, didn't offer a</p> <p>17 full perspective on German music, and that was my main</p> <p>18 interest.</p> <p>19 So I decided to go to Bavaria in Germany,</p> <p>20 and I got a scholarship from the -- it's called the</p> <p>21 German Academic Exchange Fellowship Program. And the</p> <p>22 scholarship allowed me to go to Munich. I lived in the</p> <p>23 Olympic village, that -- they took the little houses</p> <p>24 that were made for the athletes and converted them into</p> <p>25 student housing. So I lived there for a year.</p>	18	<p>1 A. So I spent a year there and then I went back to</p> <p>2 New York to finish my doctorate and wrap up everything.</p> <p>3 I've oversimplified a little bit because I commuted</p> <p>4 sometimes between New York and Germany.</p> <p>5 Q. Sure.</p> <p>6 A. But I finished my doctoral degree at CUNY, and</p> <p>7 while I was in Germany doing my doctoral research, I was</p> <p>8 already thinking that I'd like to -- to go back to</p> <p>9 Europe, but this time I wanted to go to Austria. And</p> <p>10 so, what I did was I had spied out manuscripts for Anton</p> <p>11 Bruckner, another well-known 19-century composer, and I</p> <p>12 had come up with a research project based on Bruckner.</p> <p>13 And so, I applied for another year, but this time from</p> <p>14 the Austrian government, to spend a year looking at</p> <p>15 Bruckner manuscripts.</p> <p>16 So I was very lucky to win that, and I</p> <p>17 spent a year in Vienna. And that was a very wonderful</p> <p>18 year, because by that time, my German was getting</p> <p>19 better, really pretty good. And that was good because</p> <p>20 Austria speaks a slightly different German than --</p> <p>21 than -- than Germany does. They have a -- it's almost</p> <p>22 like Texas, but even more so.</p> <p>23 So if people from Germany, especially</p> <p>24 northern Germany, hear Austrians speaking, the</p> <p>25 difference is even bigger than people, let's say, from</p>	20
<p>1 And at the same time, I -- I took a</p> <p>2 course -- or courses at the Bavarian Academy of Arts and</p> <p>3 Sciences, and I also pursued my research for my</p> <p>4 dissertation in Garmisch-Partenkirchen, in Richard</p> <p>5 Strauss' personal house. I -- I had made arrangements</p> <p>6 to study there. And so, I actually had the great</p> <p>7 privilege of working at his desk and going through his</p> <p>8 private papers for my dissertation.</p> <p>9 Q. And just for the record, is it fair to say that</p> <p>10 Richard Strauss was a German composer from the romantic</p> <p>11 era?</p> <p>12 A. Well, he -- he died in 1948, but some people</p> <p>13 talk about the long 19th century. He was, basically,</p> <p>14 a -- some people saw him as a relic of the 19th century,</p> <p>15 but I thought he was very interesting and worthy of</p> <p>16 study. So that's why I wrote my dissertation on his</p> <p>17 last work.</p> <p>18 Q. So would you classify Richard Strauss as</p> <p>19 romantic or post romantic?</p> <p>20 A. Post romantic would be good. That's a good</p> <p>21 point, yeah.</p> <p>22 Q. Okay. Okay. And it's your understanding he</p> <p>23 was a German composer?</p> <p>24 A. Oh, yes.</p> <p>25 Q. All right. How long did you study in Munich?</p>	19	<p>1 Boston coming down here and hearing a Texas accent.</p> <p>2 It's quite different, and my ears became attuned to</p> <p>3 Austrian dialect and to Viennese dialect, which is quite</p> <p>4 different. And so, that was good -- so I could navigate</p> <p>5 my way through Austria.</p> <p>6 And it was a very, very wonderful</p> <p>7 experience for me, I have to say. I -- I didn't just</p> <p>8 look at Bruckner there. I did a lot of things. And I</p> <p>9 traveled also. I went to the communist part of Europe</p> <p>10 because Europe was still communist at that time. And I</p> <p>11 went to Poland and looked at manuscripts there and so</p> <p>12 forth.</p> <p>13 And then I went back to Canada and I taught</p> <p>14 for a year at the University of Toronto. My mentor,</p> <p>15 Edward Laufer, helped me win another grant, which was a</p> <p>16 teaching and research grant. So I taught part-time at</p> <p>17 the university and I worked on my project -- on my</p> <p>18 Bruckner project.</p> <p>19 Q. And when --</p> <p>20 A. And then in 1998 -- no. Sorry earlier than</p> <p>21 that. 1994 or '3. I can't remember now exact time, but</p> <p>22 I got my first job, finally.</p> <p>23 Q. Okay. What year was it that you earned your</p> <p>24 doctorate degree?</p> <p>25 A. 1988.</p>	21

<p>1 got to listen -- just because you're a student, you got 2 to do what we say. That -- that wasn't the atmosphere. 3 Q. Do you recall any instances where a student 4 editor wanted to publish -- wanted to accept for 5 publication a submission where you or Professor Slottow 6 disagreed?</p> <p>7 A. No. Except for that one case which I 8 mentioned, the David Beech situation.</p> <p>9 Q. I see.</p> <p>10 And was that an example of where a student 11 editor was going to reject it, but you asked them to --</p> <p>12 A. Right.</p> <p>13 Q. -- to wait?</p> <p>14 Okay. Let me flip the -- the previous 15 question and ask it the other way. Are you aware of any 16 instances other than that where a student editor was 17 inclined to reject a submission for publication but you 18 or Dr. Slottow disagreed with that?</p> <p>19 A. No.</p> <p>20 Q. Okay. For submissions that were going to be 21 published as peer reviewed submissions in the JSS, who 22 decided how many reviewers to put on an article and who 23 those reviewers were going to be?</p> <p>24 A. Usually that was the student editors who were 25 doing that, and they were receiving the comments, not me</p>	<p>167</p> <p>1 let's say you were asking about how did they know where 2 to send their things out for review. So when we had our 3 meetings, we would brainstorm, this article is probably 4 good for these readers. And they, basically, learned 5 how to do it on the job. They didn't have like a code 6 of conduct or a code of rule book.</p> <p>7 We didn't have a rule book that said, you 8 know, now you must do this, now you must do that. But 9 we -- that was our job. Our job, like Slottow and me, 10 was to supervise and make sure that things went well in 11 terms of the protocols.</p> <p>12 Q. Who chose the editorial board members?</p> <p>13 A. Well, Slottow and I did it at the very outset, 14 when we -- when we set up the journal. And then over 15 the years -- over the 20 years that we published the 16 journal, some people died and other people were added.</p> <p>17 Q. So when a -- when someone was appointed to -- 18 accepted the invitation to serve on the editorial board 19 for the JSS, were there any term limits on that?</p> <p>20 A. No.</p> <p>21 Q. Was there ever any period of reevaluation?</p> <p>22 A. Not really. The -- we thought, though, that it 23 was -- it was too big. After a while it -- we decided 24 it that it was too big, and I think our intention was to 25 prune it down. But we didn't really do that.</p>
<p>1 or Slottow. I think that in a few cases where there 2 were -- we weren't sure, that we looked at the comments, 3 all of us. But usually it was pretty clear cut.</p> <p>4 Q. The student editors, would they send -- would 5 they send submissions to other members of the editorial 6 board for peer review?</p> <p>7 A. Uh-huh. If it was appropriate.</p> <p>8 Q. I see.</p> <p>9 A. In other words, if it was in their sphere of 10 interest.</p> <p>11 Q. Sure.</p> <p>12 A. That was the preferred thing.</p> <p>13 Q. Are you aware of -- of when articles would be 14 peer reviewed by reviewers that were not on the 15 editorial board of the JSS?</p> <p>16 A. There were has a few cases, I think, where that 17 happened because we didn't have anybody on the board who 18 was a specialist in that particular field. So I'm 19 pretty sure that in one or two cases, people were asked 20 to review things who weren't on the board officially.</p> <p>21 Q. Sure. How did the student editors know, 22 basically, how to do their job?</p> <p>23 Were there -- were there some sort of 24 written procedures for them to follow?</p> <p>25 A. Not really. We -- we supervised them. So</p>	<p>168</p> <p>1 Q. Who decided it was too big?</p> <p>2 A. Well, we, kind of, selectively felt that way, 3 especially Slottow seemed to think it was too big. I 4 really didn't mind one way or the other because I think 5 that the more people you have, the better because you 6 can have more specialties.</p> <p>7 Q. How many -- well, was there ever anyone who 8 asked or chose to leave or resign from the editorial 9 board?</p> <p>10 A. After the appearance of the Ewell symposium, if 11 we want to call it that, I received -- I think two or 12 three people wrote in saying they wanted to resign.</p> <p>13 Q. And about how many editors were on the board at 14 that time?</p> <p>15 A. Well, it wasn't editors. These were on the 16 editorial board -- they were like the advisory board.</p> <p>17 Yeah.</p> <p>18 Q. Excuse me.</p> <p>19 A. Yeah.</p> <p>20 Q. How many people were on the editorial board at 21 that time?</p> <p>22 A. So you mean me, Slottow, or -- Lavi Wells and 23 Benjamin Grand -- Benjamin Graf -- I mean. I'm sorry -- 24 Benjamin Graf.</p> <p>25 Q. And what was the --</p>

	195	<p>1 thought about it, the more I thought that in the -- in 2 the speaking of -- in the spirit of dialectics, which I 3 consider essential for all serious scholarship, there 4 should be pros and cons. 5 So I thought that it wasn't be great if I 6 just contacted the cons, but that we would send out a 7 general call for contributions to the symposium, and 8 that would enable people who were in favor of Ewell's 9 talk and his points and his point of view, and that we 10 would publish both without censorship and let the public 11 decide. Because I'm of the view more speech is better 12 is the way to get to the truth, not censoring people. 13 Q. And how was it determined whether those 14 responses would or would not be peer reviewed? 15 A. Well, we -- we weren't -- you see, we were 16 asking for people to respond in a sense of not writing 17 an article about it -- not writing a peer reviewed 18 article about it, but just expressing their opinions 19 about Ewell's thesis because it was really quite 20 controversial, and that was the spirit of the call. 21 Q. I see. 22 Do you recall having any conversations with 23 Mr. Walls about whether these responses would be peer 24 reviewed? 25 A. No.</p>
	196	<p>1 Q. Okay. Do you recall Dr. Slottow ever 2 mentioning the idea of peer reviewing them? 3 A. No. 4 Q. Who -- when you refer to the call, are you 5 referring to the written call for submissions that was 6 sent out through the SMT list serve? 7 A. Yes. 8 Q. Who drafted that call? 9 A. Not me. It was drafted I think by other 10 people. Probably by Ben Graf and Levy Walls, and 11 maybe -- we had input in it. We -- we they began with 12 the draft, and then Dr. Slottow and I gave our two cents 13 worth. I don't believe they took all of our 14 suggestions, but they basically sent it out having 15 absorbed some thoughts from us and from other faculty, 16 actually. 17 I -- I wanted to -- because I knew this 18 would be controversial, although I never had any inkling 19 of how controversy it would be, I wanted to consult all 20 the faculty in the music theory area who had any 21 experience with Schenkerian analysis. And so I asked 22 Diego Cubero and Olga, who calls herself Ellen, 23 Velikanova for their input. And also we asked some 24 other people in the faculty for their input into the 25 call and how to frame it so that it would be as neutral</p>

<p>1 conversations to base that on?</p> <p>2 A. No.</p> <p>3 Q. Okay.</p> <p>4 A. Because the dean never consulted me before</p> <p>5 issuing that statement.</p> <p>6 Q. And just for the record, do you have any</p> <p>7 specific document to support that belief?</p> <p>8 MR. ALLEN: Objection.</p> <p>9 THE WITNESS: No, I don't. I don't think</p> <p>10 so. I have the dean's statement, which I received along</p> <p>11 with all the other people in the school of music.</p> <p>12 Q. BY MR. WALTON: Similar question for -- I'll</p> <p>13 just say for the dean statement, but the decision by the</p> <p>14 university, whoever made the decision to institute this</p> <p>15 ad hoc review panel, did anyone ever tell you that that</p> <p>16 was done in response to the student statement or the</p> <p>17 faculty statement?</p> <p>18 A. I don't think it was explicitly indicated in</p> <p>19 the document, although I can't remember that for sure.</p> <p>20 In other words, nobody came and said, okay, because of</p> <p>21 these publicized statements, we are going to create the</p> <p>22 ad hoc committee to do this investigation.</p> <p>23 But what happened was that the students and</p> <p>24 faculty called for such a committee, and the</p> <p>25 administration succeeded to that demand and did call the</p>	<p>259</p> <p>1 this point, if I'm not mistaken, it wasn't clear that</p> <p>2 they were actually going to shut the journal down. That</p> <p>3 was made clear later by Dr. Brand.</p> <p>4 Q. And how did Dr. Brand communicate that?</p> <p>5 A. He communicated it in writing as well as</p> <p>6 verbally. So in one of our legal documents here we</p> <p>7 actually quoted Dr. Brand's statement saying that I was</p> <p>8 no longer going to be connected to the journal in any</p> <p>9 way, shape, or form because of my editorial malpractice,</p> <p>10 if you will, and that that was a decision that had been,</p> <p>11 obviously, taken by the administration.</p> <p>12 Q. You took Dr. Brand's e-mail to mean that that</p> <p>13 was already a hard and fast decision?</p> <p>14 A. Yes, it was expressed in that manner.</p> <p>15 Q. And did you have any --</p> <p>16 A. That I was removed from the journal.</p> <p>17 Q. And did you ever hear any or see any statement</p> <p>18 from Dr. Brand that -- that a decision had been made not</p> <p>19 simply to remove you, but to shut the whole journal</p> <p>20 down?</p> <p>21 A. No. I did not receive such a statement. It</p> <p>22 seemed like they wanted to hire a new editor, which was</p> <p>23 what they tried to do.</p> <p>24 Q. Okay. After you got that e-mail from Dr. Brand</p> <p>25 about your ongoing involvement in the journal that you</p>
<p>260</p> <p>1 committee into effect. So could I say that there's a</p> <p>2 kind of logic there between the call for the</p> <p>3 investigation and the issuing of the promise to -- to</p> <p>4 have an investigation and then the actual investigation?</p> <p>5 It would seem like there is a connection, you know.</p> <p>6 Q. And I'm just asking, in addition to what you've</p> <p>7 just described, are there any specific conversations or</p> <p>8 documents that you believe exist that make that</p> <p>9 connection explicit?</p> <p>10 MR. ALLEN: Objection.</p> <p>11 THE WITNESS: I don't know of those because</p> <p>12 the Dean never contacted me --</p> <p>13 Q. BY MR. WALTON: Okay.</p> <p>14 A. -- to ask me about anything.</p> <p>15 Q. When you got the -- when you saw the report</p> <p>16 from the panel --</p> <p>17 A. Yes.</p> <p>18 Q. -- did you have any conversations with anyone</p> <p>19 about whether or how to implement the recommendations in</p> <p>20 that report?</p> <p>21 A. Yes.</p> <p>22 Q. What were those conversations?</p> <p>23 A. Well, I -- I actually talked with various</p> <p>24 people about the -- the recommendations for the journal</p> <p>25 going forward on, because it wasn't clear that -- at</p>	<p>260</p> <p>1 just described, did you attempt to have any further</p> <p>2 conversation with him about that?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. It seemed like -- I mean, it didn't just seem</p> <p>6 like it. A decision was taken. What -- what would I</p> <p>7 have gone to see him about?</p> <p>8 MR. WALTON: Let's go ahead and go off the</p> <p>9 record and take a break.</p> <p>10 MR. ALLEN: Okay.</p> <p>11 THE VIDEOGRAPHER: We're off the record at</p> <p>12 5:17 p.m.</p> <p>13 (A recess was held from 5:17 p.m. to 5:33 p.m.)</p> <p>14 THE VIDEOGRAPHER: We're back on the record</p> <p>15 at 5:33 p.m.</p> <p>16 Q. BY MR. WALTON: Dr. Jackson, we're back after a</p> <p>17 break. Are you ready to proceed?</p> <p>18 A. Ready.</p> <p>19 Q. If you look at Exhibit 3, the ad hoc review</p> <p>20 panel report, and you flip back to Exhibit 3 -- to the</p> <p>21 Exhibit 3.</p> <p>22 A. Wait a second. I'm confused.</p> <p>23 Q. Page 189.</p> <p>24 A. Oh, here. Yes, yes.</p> <p>25 Q. And this is the -- this is a version of a</p>

1 I, TIMOTHY JACKSON, Ph.D., have read the foregoing 2 deposition and hereby affix my signature that same is 3 true and correct, except as noted above. 4 5 6 _____ 7 TIMOTHY JACKSON, Ph.D. 8 THE STATE OF _____) 9 COUNTY OF _____) 10 Before me _____ on this day 11 personally appeared TIMOTHY JACKSON, Ph.D., known to me 12 (or proved to me under the oath or through 13 _____) (description of identity card or 14 other document) to be the person whose name is 15 subscribed to the foregoing instrument and acknowledged 16 to me that they executed the same for the purposes and 17 consideration therein expressed. 18 Given under my hand and seal of office this 19 _____ day of _____, 2024. 20 21 22 _____ 23 NOTARY PUBLIC IN AND FOR 24 THE STATE OF _____ 25	295 1 November 16, 2024; 2 I further certify that pursuant to FRCP Rule 3 30(f)(1) that the signature of the deponent: 4 _____ was requested by the deponent or a part 5 before the completion of the deposition and that the 6 signature is to be before any notary public and returned 7 within 30 days from the date of receipt of the 8 transcript. If returned, the attached Changes and 9 Signature Page contains any changes and the reasons 10 therefore: 11 _____ was not requested by the deponent or a 12 part before the completion of the deposition. 13 I further certify I am neither counsel for, 14 related to, nor employed by any of the parties or 15 attorneys in the action in which this proceeding was 16 taken, and further that I am not financially or 17 otherwise interested in the outcome of the action. 18 Certified to by me this 17th day of OCTOBER, 19 2024. 20 21 22 23 Nicole A. Hatler, Texas CSR 11275 24 Expiration Date: 11/30/24 Integrity Legal Support Solutions 9901 Brodie Ln., #160-400 Austin, TX 78748 25 (512) 320-8609 www.integritylegal.support
1 UNITED STATES DISTRICT COURT 2 EASTERN DISTRICT OF TEXAS 3 SHERMAN DIVISION 4 TIMOTHY JACKSON, § 5 § 6 Plaintiff, § 7 § Civil Action No. 8 VS. § 9 § 4:21-cv-00033-ALM LAURA WRIGHT, et al., § 10 § 11 Defendants. § 12 § 13 REPORTER'S CERTIFICATION 14 ORAL AND VIDEOTAPED 15 DEPOSITION OF TIMOTHY JACKSON, Ph.D. 16 SEPTEMBER 24, 2024 17 18 I, Nicole A. Hatler, Certified Shorthand 19 Reporter No. 11275 in and for the State of Texas, hereby 20 certify to the following: 21 That the witness, TIMOTHY JACKSON, Ph.D., was 22 duly sworn by the officer and that the transcript of the 23 oral deposition is a true record of the testimony given 24 by the witness; 25 That the original deposition transcript was delivered to October 17, 2024; That the copy of this certificate was served on all parties and/or the witness shown herein on	296

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,)
)
 Plaintiff,)
)
VS.) CIVIL ACTION
)
LAURA WRIGHT, ET AL.) NO.: 4:21-cv-00033-ALM
)
 Defendants.)
)
)

ORAL AND VIDEOTAPED DEPOSITION OF

STEPHEN SLOTTOW, PhD

NOVEMBER 7, 2024

ORAL AND VIDEOTAPED DEPOSITION OF STEPHEN

SLOTTOW, PhD, produced as a witness at the instance
of the DEFENDANTS, and duly sworn, was taken in the
above-styled and numbered cause on November 7, 2024,
from 8:31 a.m. to 4:41 p.m., via Zoom teleconference
before Vanessa J. Theisen, CSR in and for the State
of Texas, and RPR, reported by machine shorthand, at
the University of North Texas System, 801 North Texas
Boulevard, Gateway Suite #340, Denton, Texas 76201,
pursuant to the Federal Rules of Civil Procedure and
any provisions stated on the record or attached
hereto.

26

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1 opportunity given for a response.
 2 Usually at a plenary address there's
 3 some room for questions and responses afterwards.
 4 But this plenary address, since he was one of, I
 5 think, three or four people who was talking on
 6 different topics, there were no question-and-answer
 7 periods.

8 And then, very unusually, there was
 9 no -- there were no articles. There was no response
 10 in the journals. There was nothing. There was no
 11 opportunity to give any response. So the Journal of
 12 Schenkerian Studies decided that we would post a
 13 response and solicit articles from music theorists,
 14 including us, Dr. Jackson and myself, whoever wanted
 15 to respond.

16 This led to -- we were -- since Ewell
 17 was accusing Heinrich Schenker of being a racist and
 18 that his racism was affecting his music theory,
 19 therefore, he was promulgating a racist music theory,
 20 and it was certainly the kiss of death to be in any
 21 way associated with racism, the school was terribly,
 22 terribly embarrassed and then afraid of bad publicity
 23 and reacted to that. That's what I mean.

24 Q. Who at the school was -- reacted, as you
 25 say?

1 Q. Do you think the college's reputation was
 2 damaged by the journal?
 3 A. I don't know. If music theory -- the
 4 division of music history and ethnomusicology, they
 5 were certainly on the receiving end of a lot of
 6 disapproval, so they certainly thought they were.
 7 Perhaps their reputation was damaged by those who
 8 were outraged that we would criticize Philip Ewell's
 9 opinions.

10 Q. Who are you talking about when you say, "by
 11 those who were outraged that you would criticize
 12 Philip Ewell's opinions"?

13 A. Music theorists, musicologists, people
 14 like -- people like -- people who would -- wrote
 15 blogs on music.

16 If you look on YouTube, there is an
 17 awful lot of support for Ewell's views, and, mixed
 18 with that, would be attacks on Dr. Jackson, to some
 19 extent me, and sort of by reflection, on the music
 20 theory department of UNT -- not department -- area,

21 yes. It was a big kerfuffle, yes.

22 Q. And so was this coming from outside of UNT,
 23 inside of UNT?

24 A. Well, it was certainly coming from outside
 25 of UNT, but it was coming from inside UNT also,

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29

1 A. Well, I know that Dr. Brand did and the dean
 2 did. And beyond that, I don't know for certain.
 3 Q. How do you know that Dr. Brand and the dean
 4 did?

5 A. Because it was -- as I said, it was
 6 Dr. Brand, with consultation from the dean, who told
 7 us that we would no longer be handling the journal
 8 and the center.

9 Q. He told you that?

10 A. Well, he told Tim -- he told Dr. Jackson
 11 that, I think. I don't think he told me directly,
 12 and I got it from Dr. Jackson, certainly.

13 Q. Okay. So you said Dr. Brand and the dean at
 14 the time. Was the dean John Richmond by chance?

15 A. I don't -- I'm not sure if the dean -- if it
 16 was Richmond or Scott. I -- for some reason I think
 17 it was Richmond, but I'm not entirely sure. I think
 18 it was John Richmond.

19 Q. Do you think they had reason to be
 20 embarrassed?

21 A. Well, administrators are always terribly
 22 concerned with the reputation of their programs and
 23 the schools, and they're very sensitive to bad
 24 publicity, so they probably did. We were certainly
 25 getting plenty of bad publicity.

1 because a petition was put together by the majority
 2 of UNT -- well, of faculty of the division of music
 3 history, music theory, and ethnomusicology
 4 attacking -- and also a separate petition by GAMuT,
 5 which is a graduate student organization of the
 6 division, attacking the -- criticizing the journal
 7 and criticizing Dr. Jackson, in particular, of
 8 essentially being a racist. And I think the student
 9 petition demanded his ouster from the university.

10 And a lot of the music theory facul --
 11 the music theory and history -- well, the faculty of
 12 the division signed this -- not everyone did. And
 13 all of those people are now defendants in
 14 Dr. Jackson's suit. Well, all of the faculty and one
 15 student who's no longer a student at UNT. She's at
 16 Yale.

17 Q. Uh-huh.

18 A. What was the question?

19 Q. I'm sorry, I don't recall either.

20 MS. QUIMBY: Court reporter, could you
 21 please read it back?

22 THE REPORTER: Yes, give me just a
 23 second.

24 MS. QUIMBY: Yes, thank you.

25 THE REPORTER: "And so was this coming

	34		36
<p>1 silence for a long time -- after Ewell's SMT address 2 and the article based on it that appeared in Music 3 Theory Online, and I think the actual address he gave 4 verbatim also appeared in, I think, Music Theory 5 Spectrum. I'm not sure which one appeared in which. 6 Q. Did that -- did the verbatim publishing of 7 his speech and the publishing of his paper occur 8 before or after Volume 12 was published? 9 A. I think it occurred after. We had a 10 recording of the speech, and we transcribed the 11 recording and were responding to that.</p> <p>12 Somewhere along the line an article 13 based and expanding his SMT talk appeared in either 14 Journal -- either Music Theory Spectrum or Music 15 Theory Online. I don't think that was out -- I don't 16 think that was published yet when this came out, but 17 I might be wrong. Yeah.</p> <p>18 Q. When you published Volume 12, were you aware 19 that those were forthcoming?</p> <p>20 A. I was aware that there was an article 21 expanding the talk that was forthcoming, yes.</p> <p>22 Q. Did you consider waiting until that was 23 published to publish the responses to his talk?</p> <p>24 A. We might have, but I don't think we 25 considered it very much. We felt that some sort of a</p>		<p>1 an Exhibit 1, so let's mark that as Exhibit 2. 2 MS. QUIMBY: I'm sorry, this will be 3 Exhibit 2.</p> <p>4 MR. ALLEN: Exhibit 2, right? Exhibit 1 5 is the full --</p> <p>6 MS. QUIMBY: You can hang onto that. 7 MR. ALLEN: -- print copy of the Volume 8 12.</p> <p>9 THE WITNESS: You might want to change 10 the number.</p> <p>11 MS. QUIMBY: Actually, the Exhibit 1, is 12 that the full volume?</p> <p>13 MR. ALLEN: Which he referred to in the 14 course of the deposition, yes. 15 (Exhibit 2 marked.)</p> <p>16 Q. (BY MS. QUIMBY) Dr. Slottow, I'll have you 17 just take a look at that while I'm putting this in 18 the Zoom chat.</p> <p>19 A. Okay.</p> <p>20 MS. QUIMBY: Mike, do you see that there 21 in the chat?</p> <p>22 MR. ALLEN: I just did get it, yep.</p> <p>23 MS. QUIMBY: Would you prefer that I 24 also share -- I don't know -- now I'm getting 25 feedback.</p>	
	35		37
<p>1 response to the talk, which was -- I mean, it's the 2 main -- it's the annual meeting of the major 3 professional society for music theory with a huge 4 attendance and huge publicity. It had been followed 5 by this very strange vacuum of no response. I think 6 we felt that it was more important to have some 7 response out there. At least that's my recollection.</p> <p>8 Q. Okay. Back to the student who has been sued 9 in this lawsuit, Rachel Gain. Do you know her?</p> <p>10 A. Not well. She was a student in a class of 11 mine. Well, I didn't know her personally outside of 12 that.</p> <p>13 Q. Okay. If you will bear with me a moment, I 14 have an exhibit I want to show you. It is part of 15 the Journal of Schenkerian Studies, which you have 16 there in front of you.</p> <p>17 MR. ALLEN: Is it part of Volume 12?</p> <p>18 MS. QUIMBY: Yes, I'm sorry.</p> <p>19 MR. ALLEN: Uh-huh.</p> <p>20 MS. QUIMBY: Okay. I'm marking this as 21 Exhibit 1, and I'll share that with you momentarily, 22 Mike, in the chat.</p> <p>23 MR. ALLEN: I'm not trying to hasten the 24 process.</p> <p>25 THE REPORTER: I think we already have</p>		<p>1 MR. ALLEN: We just got an echo. Did 2 you hear that?</p> <p>3 MS. QUIMBY: Yeah, for some reason my 4 laptop audio turned on.</p> <p>5 MR. ALLEN: So this will be Exhibit 2, 6 sorry, for the record?</p> <p>7 MS. QUIMBY: Yes. Are you okay to just 8 view it -- download it and pull it up that way?</p> <p>9 MR. ALLEN: Yes, that's perfectly fine.</p> <p>10 I can see it here, yeah.</p> <p>11 MS. QUIMBY: Okay.</p> <p>12 Q. (BY MS. QUIMBY) Okay, Dr. Slottow. Have 13 you had a chance to look at this?</p> <p>14 A. Yeah.</p> <p>15 Q. What is it?</p> <p>16 A. Well, it's the list of -- the first page is 17 a list of the editorial board, the editor, assistant 18 editor, advisory board. The second is information 19 about the journal with phone numbers and addresses 20 and fax numbers. Then there is the table of 21 contents. That's it.</p> <p>22 Q. Okay. And to your understanding, this is 23 from Volume 12, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So you're listed there both on the</p>	

1 editorial board and as the -- part of the advisory
2 board, correct?

3 A. I seem to be, yes.

4 Q. Can you explain to me the -- your role on
5 the editorial board first?

6 A. Well, the editorial board was just a whole
7 group of mainly prominent Schenkerian scholars,
8 who -- they didn't do much. They weren't consulted
9 much. But they were there to -- they could provide
10 some responses to the direction and actions of the
11 journal. They were partly there for prestige. I'm
12 not sure why I'm on there, actually.

13 That's some of the people there, such as
14 L. Poundie Burstein, Allen Cadwallader, David Beach,
15 Charles Burkhart, Carl Schachter were very prominent
16 -- were and are very prominent scholars. The
17 advisory board are people who were actually in charge
18 of the journal.

19 Q. Okay. I'm going to ask you more about that
20 in a moment. But you said the editorial board, they
21 weren't consulted on much. Were they consulted at
22 all?

23 A. Well, they certainly weighed in after Volume
24 12 came out. In fact, a number of them resigned.

25 Q. Do you recall who resigned?

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1 A. No, no. Even though I was officially listed
2 as codirector, something like that. I think -- I
3 think in reality Dr. Jackson was the motive force and
4 the main director of the center. I mean, it was his
5 project from the start.

6 Q. Uh-huh.

7 A. So I viewed myself as sort of -- my role was
8 secondary to his.

9 Q. And I think you described earlier that the
10 center or at least the journal was created about the
11 time that you started?

12 A. Yeah, because Volume 1 -- I was involved in
13 Volume 1, so I think they had the idea of the
14 journal, and part of my role was to help make it
15 real.

16 Q. Uh-huh. Did Dr. Jackson create both the
17 center and the journal?

18 A. Well, he certainly created the center. I
19 mean, because it was already there --

20 Q. Uh-huh.

21 A. -- when I came in. The journal was an idea
22 that was to be one of the activities of the center.
23 But it -- it had not been actualized.

24 Q. Okay. How and when did it become
25 actualized, if you recall?

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1 A. L. Poundie Burstein resigned --

2 Q. Uh-huh.

3 A. -- for sure. Frank Samarotto resigned.

4 Diego Cubero probably resigned. Ellen Bakulina, I
5 think, resigned. Mark Anson-Cartwright may have done
6 so, yes.

7 Q. What were they -- so they weren't -- so you
8 said they were consulted after Volume 12 was
9 published, correct?

10 A. Well, they weren't --

11 Q. Or they weighed in, I think you said.

12 A. They weighed in.

13 THE REPORTER: Okay. Hang on. I can't
14 get your answer and -- okay.

15 THE WITNESS: What?

16 MS. QUIMBY: We were talking over each
17 other, so the court reporter is just reminding us to
18 not do that. That's my fault. Thank you.

19 A. They weighed in.

20 Q. (BY MS. QUIMBY) Okay.

21 A. Now, I don't know whether Dr. Jackson
22 consulted with them about the idea of soliciting
23 articles in response to Ewell's address or not. I
24 can't recall.

25 Q. Did you consult with them?

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1 A. Well, it would have been shortly after I
2 joined. So that would probably be around 2002, 2003.
3 I don't know what date the first volume came out. I
4 have it at home, but I didn't think to bring it.

5 Actually, I should be able to tell you.

6 That's interesting. Volume 1 actually came out in
7 fall 2005. So it was later than I thought.

8 Q. Okay. Back to this Exhibit 2 here. Can you
9 describe your role as an advisory board member?

10 A. It's hard to remember specifics after some
11 years. I was -- I was involved in decisions of the
12 center. For instance, the decision to -- I was
13 certainly involved in soliciting articles and reviews
14 for the journal. I was certainly involved in the
15 idea of putting together a Ewell, Philip Ewell,
16 special edition.

17 I was involved in policy. Since I had
18 entered UNT, part of my job was to do with the
19 center, specifically with the journal. I was
20 probably more involved in things that -- issues
21 having to do with the journal than, say, putting on
22 concerts or making CDs. Dr. Jackson tended to be
23 much more involved in those than I was.

24 Q. The concerts and the CDs?

25 A. Yeah.

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1 Q. -- responses?

2 A. No, no.

3 Q. Did you read them at the time?

4 A. No, I looked -- you know, I would -- some of

5 them I read completely. Some of them I just sort of

6 browsed through. Some of them were very short. Some

7 are much longer.

8 Q. Was it expected or were you expected to read

9 all of them before the volume was published?

10 A. It was expected that I look at them. I'm

11 not sure it was expected that I read every word.

12 Q. Did you read any of them in their entirety?

13 A. Yes, I did.

14 Q. Did you provide feedback on any of them?

15 A. No, I wasn't asked to. Well, yes, I did,

16 actually. I -- well, both Benjamin Graf and I

17 provided a lot of feedback on Dr. Jackson's, which is

18 viewed as somewhat problematical.

19 Q. What is viewed as somewhat problematical,

20 the...

21 A. Well, I think what we found problematical is

22 there were a lot of derogatory -- as I recall, there

23 were a lot of derogatory references to

24 ethnomusicologists and ethnomusicology. And

25 we worked hard at getting --

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1 THE REPORTER: I'm sorry, to what?

2 "There was a lot of derogatory references to"?

3 THE WITNESS: Ethnomusicology.

4 THE REPORTER: Ethno?

5 THE WITNESS: It's one word,

6 ethnomusicology.

7 THE REPORTER: Thank you.

8 A. So we certainly worked a lot on that one.

9 Of course, I worked a lot on my own article. I think

10 those were the only ones that I had some critiques

11 of.

12 Q. What is ethnomusicology?

13 A. Ethnomusicology began as sort of the

14 academic formal study of nonwestern music. So these

15 none -- like -- or nonwestern classical musics. So

16 music of Africa, music of Indonesia or, within North

17 America, you might say pop music or American Indian

18 music or -- especially when it started, musicology,

19 music theory were mainly sort of western classical

20 music. So musics outside that and especially musics

21 from outside of European culture, you might say,

22 were -- had this -- fell under the catch-all

23 ethnomusicology.

24 In practice, it was sort of a

25 combination and remains so of formal music study,

1 removed. I think in the end they were removed for

2 the most part.

3 Q. Would you describe that as censorship?

4 A. No. Because we were -- when you send an

5 article out for review and changes and suggestions,

6 that's not censorship. That's the function of the

7 reviewer.

8 When -- so we were doing essentially the

9 same function. We had no -- we had no power to make

10 those changes, just to make our case to Dr. Jackson.

11 We thought it was a -- they were a bad idea, you

12 know, those -- those things.

13 Q. I think you just described the peer review

14 process of sending things out, correct?

15 A. Yes, but the -- if we're asked to read over

16 an article -- I think Dr. Jackson asked us to read

17 over his article and give responses -- then we would

18 give responses.

19 Q. In the peer review process, were substantive

20 changes recommended?

21 A. Oh, I don't know, because --

22 MR. ALLEN: Objection.

23 A. -- I was -- the editor was the one who

24 primarily read the peer reviews.

25 Q. (BY MS. QUIMBY) Uh-huh.

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<p>1 A. We were only called in when the editor felt 2 it was necessary, which was -- didn't happen, or it 3 didn't happen very much. So I don't know. 4 Q. In your experience of engaging in the peer 5 review process of your own articles, were you -- did 6 you engage in substantive changes in that process 7 ever?</p> <p>8 A. Well, I was asked to at times. Often the 9 author can argue against changes --</p> <p>10 Q. Uh-huh.</p> <p>11 A. -- that the peer reviewer or some of these 12 peer reviewers want to make.</p> <p>13 In my case, I have done that, because 14 especially if you're doing an analytical article, the 15 peer reviewer may have a different interpretation of 16 the piece than you have. And if you incorporate too 17 many of their changes, your entire argument, your 18 entire interpretation might be gone; you've simply 19 substituted it with theirs.</p> <p>20 Q. Uh-huh.</p> <p>21 A. It's not your article anymore. So I have 22 argued successfully for the most part on a number of 23 occasions.</p> <p>24 Q. Is peer review a form of censorship?</p> <p>25 A. No, no. It's -- in fact, it's viewed as a</p>		<p>1 to certain people that they submit responses or if I 2 don't know, I assume and strongly suspect so. 3 Q. And you said Ben Graf also may have provided 4 feedback on Dr. Jackson's article?</p> <p>5 A. He did.</p> <p>6 Q. Okay.</p> <p>7 A. We both did.</p> <p>8 Q. And I'm sorry if you may have answered this, 9 but do you recall any other feedback you provided 10 besides the feedback about ethnomusicology or 11 musicologists?</p> <p>12 A. I don't recall that there was more. I mean, 13 it took some work to get those done, because 14 Dr. Jackson was resistant to making those changes, so 15 we had to apply a certain amount of persuasion.</p> <p>16 As in my own case, suggesting changes 17 doesn't equate to the author making those changes.</p> <p>18 Q. In the peer review process I think you 19 described as -- is it required that suggested changes 20 be adopted?</p> <p>21 A. That depends on the journal and the 22 editorial policy. If you're lucky, the editor -- the 23 editor of the journal will permit you to make a plea 24 of conscience and say, "If I make these changes, it's 25 no longer my article; it's their article," and let</p>		
<p>1 prestigious thing. An article that appears in a 2 peer-reviewed journal has more -- a higher reputation 3 than an article that does not because in the article, 4 if it's not, the idea is that just any old thing can 5 get published in the journal. It's not subject to 6 inspection from someone who is a specialist.</p> <p>7 Q. So I want to -- can you describe how the 8 articles that were published in the symposium were 9 chosen? I understand you may not have read them all.</p> <p>10 A. No, I really can't because I wasn't involved 11 in that.</p> <p>12 Q. Did you -- were you involved in soliciting 13 responses?</p> <p>14 A. No.</p> <p>15 Q. Who -- did anyone solicit responses?</p> <p>16 A. The editor, I think, solicited responses. I 17 think Dr. Jackson also solicited responses.</p> <p>18 Q. When we're talking about the editor, are we 19 talking about Ben Graf or Levi Walls or both?</p> <p>20 A. I would say Ben Graf. I mean, Levi might 21 have written the letter, but I would suspect that, 22 being a -- Levi, being sort of an apprenticeship 23 learn-on-the-job role, that anything of that sort 24 would have come more from Ben.</p> <p>25 But I know that Dr. Jackson did suggest</p>	79	<p>1 you -- let you publish with that disagreement. 2 But some journals I think will say, "You 3 have to implement these changes or we won't publish 4 your article," and then you -- that's that.</p> <p>5 Q. Was it a policy of the JSS to require 6 changes suggested in the peer review process to be 7 adopted?</p> <p>8 A. I don't know because that was the editor's 9 job, and the editor handled it seemingly very well, 10 and we -- he seldom felt it was necessary to consult 11 us.</p> <p>12 Q. So was it -- was there a written policy 13 addressing that one way or the other?</p> <p>14 A. Oh, I'm sure there was, and that would be up 15 to the discretion of the editor.</p> <p>16 The editor had considerable power in the 17 journal. It wasn't just a matter of doing the work; 18 it was also making a lot of the decisions. If the 19 editor saw fit to consult Dr. Jackson and I or if we 20 felt we really needed to consult with the editor, 21 that would happen. But it would not automatically 22 happen.</p> <p>23 Q. Is that true for -- that the editor had a 24 lot of power, is that true for the symposium of 25 Volume 12?</p>	81	

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1 A. Yeah, I would say so. I think it's
 2 generally the case that the editor is the one who
 3 makes most of the decisions.
 4 Q. Do you recall telling the ad hoc panel that
 5 you and Dr. Jackson kind of took over on the
 6 symposium part of the Volume 12?

7 A. Took over? What do you mean "took over"?

8 Q. I believe those are words that you used.

9 A. I wonder what I meant by that.

10 MR. ALLEN: Objection.

11 A. I don't think we took over at all.

12 Q. (BY MS. QUIMBY) Do you recall telling the
 13 ad hoc panel that?

14 A. I don't --

15 MR. ALLEN: Objection.

16 A. I don't recall. I mean, we do have notes
 17 from the ad hoc panel, which I've looked over, but
 18 not thoroughly. I don't know if it's -- I don't
 19 think something like that is mentioned, but I'm not
 20 sure.

21 Q. Was there anything about -- strike that.

22 Was there ever a time before publishing
 23 or before Volume 12 was published that the editorship
 24 of the journal or the structure of it was discussed
 25 or discussed that it needed to be changed?

1 A. No.
 2 Q. Okay.
 3 A. I've met him because Ellen -- well, Ellen
 4 Bakulina, who was on our faculty for some years, just
 5 left to go to McGill, was a friend of his. I don't
 6 think I've ever talked to him. So I guess the answer
 7 is no.

8 Q. Were you involved in the creation of the
 9 call for papers for the symposium issue?

10 A. No. Well, no, no. The editor and the
 11 assistant editor came up with that. I wasn't -- I
 12 saw it, but I wasn't involved in it.

13 Q. For the sym -- go ahead.

14 A. I guess I could have been involved in it if
 15 I had an objection to it.

16 Q. Do you recall having an objection to it?

17 A. No, no. I mean, I recall that I did not
 18 have an objection to it.

19 Q. Do you recall how many responses or -- were
 20 received?

21 A. I don't know because they would come in to
 22 the editor. They wouldn't come in to either
 23 Dr. Jackson or to me.

24 Q. Were all of the responses that you received
 25 published?

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1 A. No.
 2 MR. ALLEN: Objection.
 3 A. I mean, we were in a period of transition as
 4 it was.
 5 Q. (BY MS. QUIMBY) What do you mean by that?
 6 A. Well, as I said, Ben Graf was the editor,
 7 but Levi was being groomed, so to speak, as the next
 8 editor; therefore, we have "assistant editor" on the
 9 masthead.

10 THE REPORTER: I'm sorry, "an assistant
 11 editor on the"?

12 THE WITNESS: The masthead.

13 THE REPORTER: Masthead, thank you.

14 Q. (BY MS. QUIMBY) Before Volume 12, though,
 15 was it ever discussed that the structure -- the
 16 editorial structure be changed?

17 A. No. That was the model from the beginning.
 18 It seemed to work very well. Ben Graf was, as Colin
 19 Davis had been before him, superb at his job. We had
 20 nothing to complain about. There didn't seem to be
 21 any reason -- he was not complaining. Didn't seem to
 22 be any reason to change that. And it was part of the
 23 conception of the journal from the outset.

24 Q. Switching gears a little bit, do you know
 25 Philip Ewell personally?

1 A. I don't know. That would be a good question
 2 to ask Levi Walls or Ben Graf.
 3 Q. Do you recall the -- that there was a
 4 deadline in the call for papers?

5 A. There was a deadline, and it was a close
 6 deadline, as I recall. A little too close for
 7 comfort. I know that some people complained about
 8 it. We weren't giving them enough time.

9 Q. What was too close for comfort about that?

10 A. I don't re -- I think it was three weeks or
 11 something like that. It was just -- that's very
 12 short. I think it's mainly because we were looking
 13 at a publication deadline from UNT Press. But, yeah,
 14 there was definitely a deadline. There has to be a
 15 deadline. It's unworkable if there's not.

16 Q. You said that it was about three weeks that
 17 you recall?

18 A. I think so, but I'm not sure.

19 Q. How long --

20 A. That's just an impression.

21 Q. How long would a normal deadline be?

22 A. Well, normally -- normally, a journal is not
 23 going to have a deadline. I mean -- well, I don't
 24 know.

25 Usually, with journals, people send in

	<p>90 1 and he was asking about editorial policies and 2 etcetera.</p> <p>3 Q. Were you truthful in your interview?</p> <p>4 A. Yeah, as -- to my knowledge, yeah.</p> <p>5 Q. Do you recall describing the symposium as a 6 visceral reaction to the Ewell -- Dr. Ewell's talk?</p> <p>7 A. Visceral reaction? Well, the notes that 8 were taken -- I see that there were notes taken on 9 the interview. They were certainly not written by 10 me.</p> <p>11 Q. Uh-huh.</p> <p>12 A. And they were certainly not language that I 13 would usually use. I don't think I would say 14 "visceral reaction" because they weren't.</p> <p>15 Q. How would you describe it, then?</p> <p>16 A. Well, it's a reaction to Ewell's allegations 17 involving Heinrich Schenker and Schenkerian analysis. 18 Visceral implies a sort of like a scream of pain from 19 the guts. Hopefully they weren't that; they were 20 more considered. And, besides, not all of them were 21 critical of Dr. Ewell either. So I would not 22 describe it as a visceral reaction.</p> <p>23 I didn't -- I don't think I would use 24 those words, but who knows? It's possible.</p> <p>25 Q. Do you recall expressing -- and maybe not in</p> <p>91 1 these words, but that more caution should have been 2 exercised in publishing --</p> <p>3 A. Yes, I did --</p> <p>4 Q. -- this symposium?</p> <p>5 A. -- because I did not anticipate the 6 reaction. It took me by surprise. I thought that a 7 lot of what Dr. Ewell was saying was outrageous and 8 hypocritical because he said, "I hope we can save 9 Schenkerian analysis."</p> <p>10 Save Schenkerian analysis from what? 11 Well, from Dr. Ewell's attacks. That's from what. 12 It didn't need to be saved before.</p> <p>13 So to take this sort of sanctimonious --</p> <p>14 "I'm only here to save Schenkerian analysis from its 15 enemies of whom I am the main person," I thought it 16 was a little hard to swallow and of their -- and so I 17 think hypocritical is the word I would use for some 18 of what he said.</p> <p>19 What was the question?</p> <p>20 Q. I don't -- I asked if you recall expressing 21 that more caution should have been --</p> <p>22 A. Oh, yes.</p> <p>23 Q. -- exercised?</p> <p>24 A. Yes. I was -- I went off on a tangent. 25 I did not anticipate the reaction that</p> <p>92 1 Dr. Ewell would be looked upon as a victim and we 2 would be looked upon as oppressors and racists 3 because I thought a lot of what Ewell was saying was 4 outrageous and ill-founded. So I was taken aback by 5 the -- and had I anticipated such a reaction, I would 6 have counseled a great deal more caution in what the 7 journal did.</p> <p>8 Q. Would you have read all of the responses 9 before they were published?</p> <p>10 A. Probably, but what I probably would have 11 done differently was that I -- in retrospect, I would 12 have counseled that we ask Dr. Ewell to participate 13 as a respondent, and I probably would have counseled 14 that in this case everything be peer-reviewed. But I 15 did not anticipate that -- that response.</p> <p>16 Q. You just mentioned Dr. Ewell, you would have 17 invited him. So was he invited into the process at 18 all?</p> <p>19 A. No. Well, he was invited only to the extent 20 that he could have submitted --</p> <p>21 Q. Uh-huh.</p> <p>22 A. -- an article of his own, and -- like anyone 23 else. He was certainly aware of the call for papers, 24 but he wasn't invited as a respondent to the papers.</p> <p>25 Q. A respondent to the responses. Is that --</p>
	<p>91 1 A. Yeah.</p> <p>2 Q. Why would he have responded to his own 3 paper?</p> <p>4 A. Well, it does seem sort of illogical when 5 you put it that way. But that's the extent, that he 6 was not invited in any special role at all.</p> <p>7 In retrospect, after the response to the 8 journal, he probably -- I would feel -- I don't know 9 if Dr. Jackson would, but I would feel that that 10 would have been the better approach and more cautious 11 approach.</p> <p>12 Q. So we talked about that Benjamin Graf, you 13 think he resigned as the editor. What about Levi 14 Walls? Did he resign, or do you know what happened 15 to that role?</p> <p>16 A. Levi was attacked -- Levi was attacked, as 17 was Dr. Jackson, and to some extent, me, as being the 18 assistant editor and the one who signed, I think, the 19 call for papers. And then I think the -- there was 20 something here that was sort of a little introduction 21 to the symposium that he might have signed saying 22 something about, "We welcome," you know, "all 23 opinions."</p> <p>24 Oh, yes. This introduction to the 25 symposium, he wrote that, though he didn't sign it.</p>

1 He came in for a lot of criticism. As a graduate
 2 student, he was afraid that he would be -- his career
 3 would be adversely affected or ruined entirely, and
 4 he -- well, he did a number of things. He went
 5 online and kind of said he was bullied into doing
 6 certain things, I think, by Dr. Jackson, or made to
 7 do certain things or felt he had no choice, and he
 8 resigned as editor in chief in an attempt to
 9 forestall further negative reaction which could hurt
 10 his career.

11 Q. Do you think he was justified in being
 12 afraid for his career?

13 A. Oh, yeah, sure. Definitely. And look what
 14 happened to Dr. Jackson. All of that as a result of
 15 this issue and of his article in this issue.

16 I was attacked, certainly have been
 17 attacked in Ewell's recent book. And since -- in the
 18 United States especially, not so much in Europe or
 19 Britain, anyone accused of racism in the academic
 20 circles is sort of assumed guilty. And -- yeah, he
 21 had reason to be afraid, certainly.

22 Q. So he resigned, as I understand and you have
 23 testified, and Dr. Graf resigned. So effectively
 24 there's no editor?

25 A. Well, at that point, I don't know if there

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1 been sort of his project, fundamentally.

2 Q. So if there's no editor -- let's just say,
 3 for example, the journal still exists.

4 MR. ALLEN: Objection.

5 Q. (BY MS. QUIMBY) Could it be -- could it
 6 publish anything without editors?

7 A. No.

8 Q. Okay.

9 A. I mean, not with any degree of repute. No
 10 one would take it seriously.

11 Q. Do you think Volume 12 or the symposium
 12 damaged UNT's reputation?

13 A. I don't know, but there's a good chance of
 14 it. I mean, certainly UNT was reacting to the
 15 possibility that it would.

16 Q. Are you -- so Levi Walls' resignation, are
 17 you -- did he do that on his own accord, do you know?

18 A. I'm sure he did it on his own accord. He
 19 was trying to remove himself from a toxic situation
 20 as much as he could.

21 Levi was viewing himself very much as a
 22 victim, I think, a victim of Dr. Jackson in
 23 particular. And he was trying to -- and he was being
 24 attacked and criticized by the -- certainly by the
 25 online music theory community, and he was scared,

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1 was any journal or any center anymore. I'm not sure
 2 exactly what happened first. But at a certain point
 3 there was nothing left to be editor of.
 4 Q. Why do you say that?
 5 A. Because the journal was taken away from us
 6 by the college. They tried, naively, to find someone
 7 who would take the journal on, maybe someone from
 8 another school. Of course -- well, I wasn't on the
 9 search committee, but, evidently no one would touch
 10 it with a 10-foot pole. It was radioactive at that
 11 point.

12 Q. What do you mean that it was taken away from
 13 you?

14 A. The journal was part of the center. The
 15 center was part of the -- and the school said that we
 16 were -- we could no longer publish the journal and
 17 that the center is in abeyance.

18 Q. And I think you testified earlier that your
 19 knowledge of this is through Dr. Jackson, correct?

20 A. Well, it was widely known. I mean, things
 21 get out fast, but I don't recall what any of the
 22 administration -- I don't think any of the
 23 administration told me directly, because Dr. Jackson
 24 was certainly viewed as sort of the main person
 25 responsible for the center. It was -- it had always

95

1 with reason.

2 Q. Do you think he was wrong in being a victim
 3 or feeling like a victim?

4 A. No, he was -- well, of Dr. Jackson? I don't
 5 think he was a victim of Dr. Jackson.

6 Levi was -- Levi was not -- my
 7 perception was that Levi was not very assertive.
 8 Levi was slow to argue back. If he really felt
 9 something was wrong, he might say something, but he
 10 wouldn't stick to his guns. He felt very much
 11 that -- in a subservient position, far more than any
 12 of the previous editors had done. I mean, I don't
 13 think that any of our previous editors felt
 14 especially they had to take -- be subservient or feel
 15 they had to do something which is against their
 16 conscience.

17 I don't think that Ben Graf felt that
 18 way, but I think I read somewhere that he said he
 19 did. Maybe in a deposition; I don't know. But that
 20 wasn't my perception.

21 But Levi did. He was not very -- he
 22 felt he was -- his role was a subservient one.

23 Q. So you described the committee that was put
 24 together to find a new editor, correct, or you
 25 mentioned that?

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	98		100
<p>1 A. I alluded to it, yeah. I wasn't part of it.</p> <p>2 Q. Uh-huh. Is there anything preventing you</p> <p>3 from applying to be the editor?</p> <p>4 A. The editor of what? There's nothing left.</p> <p>5 Q. Well, isn't the committee searching for an</p> <p>6 editor?</p> <p>7 A. Oh, that's -- that disbanded probably years</p> <p>8 ago.</p> <p>9 Q. Before it disbanded.</p> <p>10 A. Well, you don't apply to be. You're</p> <p>11 appointed to it, probably by the dean. You can't</p> <p>12 apply to be on it. You can, but it's not going to do</p> <p>13 anything.</p> <p>14 You don't volunteer to -- it was a</p> <p>15 search committee. You don't volunteer for search</p> <p>16 committees, or there's no reason to.</p> <p>17 Q. I meant apply for the position of editor.</p> <p>18 A. That would be a rather absurd thing to do</p> <p>19 because I had already been so involved in it, they</p> <p>20 would want a clean sweep.</p> <p>21 Q. Is it -- did they tell you that? Did they</p> <p>22 say you can't?</p> <p>23 A. No, but it's obvious.</p> <p>24 Q. How is it --</p> <p>25 A. It would be like Dr. Jackson applying to be</p>		<p>1 Q. Why do you think it was associated with</p> <p>2 racism?</p> <p>3 A. Well, you looked at this exhibit, didn't</p> <p>4 you?</p> <p>5 Q. I'm asking you.</p> <p>6 MR. ALLEN: Can you state for the record</p> <p>7 which exhibit you're referring to, please?</p> <p>8 THE WITNESS: It says 3.</p> <p>9 MR. ALLEN: Thank you. And is that the</p> <p>10 faculty petition?</p> <p>11 THE WITNESS: Yes.</p> <p>12 A. "The forthcoming issue is replete with</p> <p>13 racial stereotyping and tropes and include personal</p> <p>14 attacks directed at Dr. Ewell." Yeah.</p> <p>15 MS. QUIMBY: Can you read back my</p> <p>16 question, please?</p> <p>17 THE REPORTER: The witness's mic is</p> <p>18 getting very, very quiet. Was it getting quiet for</p> <p>19 anyone else?</p> <p>20 MR. ALLEN: I'm good. I was having</p> <p>21 trouble hearing Mary, but I think it was the way she</p> <p>22 turned her head when she turned to you.</p> <p>23 THE REPORTER: Okay. Here's the</p> <p>24 question: "Why do you think it was associated with</p> <p>25 racism?"</p>	
<p>1 the editor of the journal or Ben Graf. I mean, the</p> <p>2 idea was to preserve the journal, but to disassociate</p> <p>3 it with anyone it had been associated with and maybe</p> <p>4 even hand it off to a different school. It didn't go</p> <p>5 anywhere.</p> <p>6 In any case, we weren't approached</p> <p>7 certainly. I mean, I guess there's nothing to</p> <p>8 prevent us from -- I mean, there was a public search.</p> <p>9 You know, "We're looking for someone to take over the</p> <p>10 editors of the journal," and I suppose Dr. Jackson or</p> <p>11 I or Ben could have written in, but it wouldn't have</p> <p>12 gotten to first base. I mean, you generally don't</p> <p>13 apply for things where you feel you have no choice of</p> <p>14 acceptance because that wasn't the reason it was</p> <p>15 being advertised.</p> <p>16 Evidently -- I mean, nothing came of it,</p> <p>17 and I don't know -- I wouldn't be surprised if no one</p> <p>18 applied, but I wouldn't know, because I wasn't on the</p> <p>19 search committee.</p> <p>20 Q. I think you described it as radioactive, the</p> <p>21 journal. What do you mean by that?</p> <p>22 A. The journal was now associated with racism</p> <p>23 and with acting unfairly to poor Dr. Ewell and</p> <p>24 deficient editorial practices, and it was just like</p> <p>25 this sort of radioactive turd.</p>	99	<p>1 A. So, in addition to this, I mean, Ewell's</p> <p>2 contention was that Schenker was a racist, that his</p> <p>3 racism had infected his views (phonetic) of theory,</p> <p>4 which I deny, by the way, and that -- and then that</p> <p>5 the Journal of Schenkerian Studies, by criticizing</p> <p>6 Ewell, was racist in doing so.</p> <p>7 So each side is accusing the other of</p> <p>8 being racist for different reasons. In a sense, the</p> <p>9 Journal of Schenkerian Studies is being accused of</p> <p>10 being racist for criticizing Philip Ewell's</p> <p>11 accusations that Schenker was racist. So a lot of</p> <p>12 racism.</p> <p>13 Q. (BY MS. QUIMBY) Was the criticism of</p> <p>14 racism, did that come from other than just the</p> <p>15 faculty petition and the student petition as you've</p> <p>16 described them?</p> <p>17 A. Yeah, yeah.</p> <p>18 Q. Where else did it come from?</p> <p>19 A. Online chatter, and there was an SMT talk</p> <p>20 list where there was a lot -- or SMT discussion list.</p> <p>21 SMT being the Society for Music Theory.</p> <p>22 THE REPORTER: Okay. I need to pause.</p> <p>23 He's very, very quiet on my end.</p> <p>24 MR. ALLEN: They both are. I don't know</p> <p>25 what happened in that transition.</p>	101

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1	article about black anti-Semitism --		1 A. Levi Walls I did not know that well. He was
2	Q. Uh-huh.		2 a student in my Schenker class.
3	A. -- would certainly be construed as racist by		3 Q. Uh-huh.
4	some key people. I would not because I think it's a		4 A. And then I had some contact with him when
5	phenomena that exists.		5 this issue was being put together, mainly emails. He
6	Q. Uh-huh. Did anyone actually take issue with		6 would email Ben Graf and Tim Jackson and me --
7	its factual basis?		7 Q. Sure.
8	A. Not to my -- well, not to my knowledge, no.		8 A. -- and we would go back and forth, but that
9	Q. I believe Timothy Jackson also argued that		9 was about it.
10	black children are, on average, not exposed to the		10 Q. Okay. And do you remember him ever
11	tradition of western classical music --		11 expressing a view before the publication came out on
12	A. I think --		12 the quality of Philip Ewell's scholarship?
13	Q. -- in comparison to other groups of people		13 MS. QUIMBY: Objection. Form.
14	in the United States?		14 A. No, no.
15	A. Yeah, I think he did say that.		15 Q. (BY MR. ALLEN) Okay. That's fine.
16	Q. And do you recall that being -- him being		16 Now, you -- I think you characterized
17	accused of being racist because he wrote that?		17 Levi Walls -- and I'm not trying to put words in your
18	A. I don't recall any specific instance, but		18 mouth, but something of a weak person?
19	it's a case where he well might be.		19 A. Well, it's -- yeah, don't put words in my
20	Q. Has anyone, to your knowledge in the		20 mouth.
21	Schenker kerfuffle that you have identified, ever		21 I wouldn't say -- he was -- he was not
22	published any factual refutation of that assertion?		22 as assertive or as self-confident as the previous
23	A. No, I don't think that anyone has.		23 editors had been. And he was more inclined to feel
24	Q. Do you know if it's in fact true?		24 that he had to do what -- most specifically, what
25	A. I don't know if it's true. I would assume		25 Dr. Jackson told him to do, that that was his role.
		135	
1	that Dr. Jackson has his own reasons for --		1 I don't think that Ben Graf or Colin
2	Q. Okay.		2 or -- who was the first editor? The name escapes
3	A. -- saying it, but I wouldn't care to defend		3 me -- really felt that way. They would argue back if
4	that as a true or false assertion.		4 they really felt --
5	Q. Okay. That's fine. But you don't know of		5 Q. Uh-huh.
6	anyone in the controversy that actually tried to		6 A. -- something was the wrong thing to do and
7	refute with facts Timothy Jackson's argument that		7 they had a better idea.
8	this is actually a cultural phenomenon in the United		8 Levi would only argue to a certain
9	States?		9 extent, and then he would say, well -- and then he
10	A. I don't know of anyone who has done that.		10 would stop. So he was more prone to viewing himself
11	But also, I made a conscious decision to stop		11 as a -- sort of a functionary under authority --
12	involving myself at a certain point --		12 Q. Uh-huh.
13	Q. I understand.		13 A. -- than the previous editors were. And then
14	A. -- in reading the back-and-forth on it. So		14 he wasn't a full-fledged editor too. I mean, he was
15	to my knowledge, no.		15 sort of an editor-in-training. So he was also under
16	Q. Thank you. You talked quite a bit in your		16 the authority of Benjamin Graf to some extent too.
17	testimony about Mr. Levi Walls and Benjamin Graf, the		17 Q. Sure. And in your view --
18	two editors of the Journal for Schenkerian Studies		18 A. It was --
19	back in 2020, and I want to ask you if you worked at		19 Q. Sorry.
20	all with Levi Walls in the lead-up to the publication		20 A. It was an apprenticeship.
21	of the Volume 12 of the Journal of Schenkerian		21 Q. Okay. And in your view, was there a power
22	Studies?		22 differential between Benjamin Graf and Levi Walls?
23	A. No. Benjamin Graf, yes. I mean, I've known		23 A. Well, there was, because Benjamin was the
24	him for a long time as a student and colleague.		24 very experienced editor, and Levi was just coming in
25	Q. Uh-huh.		25 and learning the job. I don't think it was a
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<p>1 problematic power issue -- power imbalance.</p> <p>2 Q. Okay.</p> <p>3 A. The power imbalance he felt between him and</p> <p>4 Timothy Jackson was a much more powerful and</p> <p>5 problematic one.</p> <p>6 Q. Well, why was it problematic?</p> <p>7 A. Because he felt -- I think he felt he was</p> <p>8 under Dr. Jackson's control, as I said, in a way the</p> <p>9 other editors did not and that --</p> <p>10 Q. Uh-huh.</p> <p>11 A. -- he had sort of had to do what Dr. Jackson</p> <p>12 said even if he disapproved of it. He would -- he</p> <p>13 would kowtow in a certain way.</p> <p>14 Q. And yet that didn't prevent him from</p> <p>15 condemning Professor Jackson in July of 2020, did it?</p> <p>16 A. Well, that was -- that was after the</p> <p>17 publication of the journal, right?</p> <p>18 Q. Yes.</p> <p>19 A. No, he -- you might say he turned on</p> <p>20 Dr. Jackson then because he felt that Dr. Jackson was</p> <p>21 instrumental in possibly destroying his career.</p> <p>22 Q. Do you think he feared Dr. Jackson or the</p> <p>23 larger community of society of music theory</p> <p>24 professors who were agitating against the journal at</p> <p>25 that time?</p>	138	<p>1 to Dr. Jackson and me and Ben arguing before</p> <p>2 publication that we should invite Philip Ewell in as</p> <p>3 a respondent and that -- and that -- well, I argued</p> <p>4 against it because I told him what I told you, which</p> <p>5 is that in my experience, the traditional way to</p> <p>6 handle these things is that the criticized scholar</p> <p>7 would write a letter to the editor, and it would be</p> <p>8 dealt with in that way.</p> <p>9 Q. Uh-huh.</p> <p>10 A. It turns out that there evidently was also a</p> <p>11 practice of doing just what Levi suggested, but I</p> <p>12 somehow didn't know about it. I hadn't had</p> <p>13 experience with that.</p> <p>14 So I argued against that, and then</p> <p>15 Dr. Jackson agreed with me. And then Levi -- in</p> <p>16 retrospect, as I said, I think that would have been a</p> <p>17 good idea. But Levi then just let the matter drop.</p> <p>18 He -- you know, "If Dr. Jackson and Dr. Slottow say</p> <p>19 no, then I've done what I could. I'm not going to</p> <p>20 press the issue. I'm not going to continue to argue</p> <p>21 for it." He just let it drop. So he brought it up,</p> <p>22 but he let it go fairly easily. That's one instance</p> <p>23 I can remember.</p> <p>24 Q. Was he ever ordered by Timothy Jackson to</p> <p>25 censor anyone?</p>	140
<p>1 A. Well, he certainly feared the larger</p> <p>2 community to the extent the larger community was</p> <p>3 pointing to him as the editor and saying, "This is</p> <p>4 your fault" --</p> <p>5 Q. Uh-huh.</p> <p>6 A. -- but he blamed Dr. Jackson to a large</p> <p>7 extent for that situation.</p> <p>8 Q. And you said -- I forget how you put it, but</p> <p>9 he felt dominated or something like that by Timothy</p> <p>10 Jackson?</p> <p>11 A. Yes.</p> <p>12 Q. What specific observations did you -- you</p> <p>13 know, what specific events or emails or utterances by</p> <p>14 Levi Walls gave you that impression? And I'm talking</p> <p>15 about before the journal came out.</p> <p>16 A. Well, it was in -- before it was published,</p> <p>17 you mean?</p> <p>18 Q. Yes, correct. Before his grand, you know,</p> <p>19 renunciation of his position and condemnation of</p> <p>20 Timothy Jackson and claiming that he had been stuck</p> <p>21 in a car by some gangster-like professor and all this</p> <p>22 stuff.</p> <p>23 MS. QUIMBY: Objection. Form.</p> <p>24 A. Yeah, I don't -- he never talked to me about</p> <p>25 that last point. I do know he did send an email out</p>	139	<p>1 A. Not to my knowledge, no. It would seem very</p> <p>2 uncharacteristic.</p> <p>3 What do you mean "censor anyone"?</p> <p>4 Q. I don't know. That's the word he used,</p> <p>5 right, that he was directed, quote, "not to censor</p> <p>6 someone that he wanted to censor," or something of</p> <p>7 that nature.</p> <p>8 A. Are you saying that I said that?</p> <p>9 Q. I'm asking you. I'm asking you if you ever</p> <p>10 heard Timothy Jackson direct Levi Walls to censor</p> <p>11 someone?</p> <p>12 A. No.</p> <p>13 Q. Had -- did you ever --</p> <p>14 A. I'm not even sure what that means.</p> <p>15 Q. Did you ever witness -- okay. Sorry, go</p> <p>16 ahead.</p> <p>17 A. Like -- no, I never heard anything of that</p> <p>18 nature, and this context, I'm not even sure what that</p> <p>19 would mean.</p> <p>20 Q. So you don't even know what Levi Walls is</p> <p>21 talking about?</p> <p>22 A. Well, I don't know that he had used that</p> <p>23 term, and I'm not sure -- unless -- without knowing</p> <p>24 more --</p> <p>25 Q. Yeah.</p>	141

1 CHANGES AND SIGNATURE 2 WITNESS NAME: STEPHEN SLOTTOW, PhD 3 DATE OF DEPOSITION: NOVEMBER 7, 2024 4 PAGE LINE CHANGE REASON 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____	166 1 THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS 2 SHERMAN DIVISION 3 TIMOTHY JACKSON,) 4 Plaintiff,) 5 VS.) CIVIL ACTION 6 LAURA WRIGHT, ET AL.) NO.: 4:21-cv-00033-ALM 7 Defendants.) 8 9 REPORTER'S CERTIFICATION OF THE ORAL DEPOSITION OF STEPHEN SLOTTOW, PhD NOVEMBER 7, 2024 10 11 I, Vanessa J. Theisen, a Certified 12 Shorthand Reporter in and for the State of Texas, 13 hereby certify to the following: 14 That the witness, STEPHEN SLOTTOW, PhD, 15 was duly sworn by the officer and that the transcript 16 of the oral deposition is a true record of the 17 testimony given by the witness; 18 That the original deposition was delivered 19 to Mr. Patrick Todd to obtain witness's signature. 20 That a copy of this certificate was served 21 on all parties and/or the witness shown herein on 22 November 11, 2024. 23 I further certify that pursuant to FRCP 24 Rule 30(3) that the signature of the deponent: 25 ___XX___ was requested by the deponent or a
167 1 I, STEPHEN SLOTTOW, PhD, have read the 2 foregoing deposition and hereby affix my signature 3 that same is true and correct, except as noted above. 4 5 _____ 6 STEPHEN SLOTTOW, PhD 7 THE STATE OF _____) 8 COUNTY OF _____) 9 Before me, _____, on this day 10 personally appeared STEPHEN SLOTTOW, PhD, known to me 11 (or proved to me under oath or through 12 _____) (description of identity card or 13 other document) to be the person whose name is 14 subscribed to the foregoing instrument and 15 acknowledged to me that he executed the same for the 16 purposes and consideration therein expressed. 17 18 Given under my hand and seal of office, this 19 _____ day of _____, _____. 20 21 _____ 22 NOTARY PUBLIC IN AND FOR 23 THE STATE OF _____ 24 My commission expires: _____ 25 ___ No Changes Made ___ Amendment Sheet(s) Attached	169 1 party before the completion of the deposition and 2 that the signature is to be before any notary public 3 and returned within 30 days from date of receipt of 4 the transcript. 5 If returned, the attached Changes and 6 Signature Page contains any changes and the reasons 7 therefore: 8 ___ was not requested by the deponent or 9 a party before the completion of the deposition. 10 I further certify that I am neither 11 counsel for, related to, nor employed by any of the 12 parties or attorneys in the action in which this 13 proceeding was taken, and further that I am not 14 financially or otherwise interested in the outcome of 15 the action. 16 Certified to by me on this, the 11th day 17 of November, 2024. 18 19 _____ 20 VANESSA J. THEISEN, Texas CSR, RPR Texas Cert No. 3238 Expiration Date: 10/31/25 21 Integrity Legal Support Solutions Firm Registration No. 528 22 9901 Brodie Ln., Ste. 160-400 Austin, Texas 78748 (512) 320-8690 www.integritylegal.support 23 24 25

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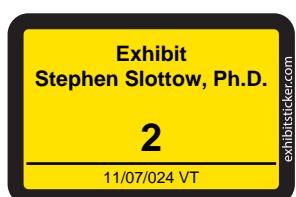
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Levi Nigem Xenon Walls 5/18/21

3

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION
4
3 TIMOTHY JACKSON,)
4 Plaintiff,)
5 v.) CASE NO.
6 LAURA WRIGHT, et al.,) 4:21-cv-00033-ALM
7 Defendants.)
8

9
10 -----
11 ORAL DEPOSITION OF
12 LEVI NIGEM XENON WALLS
13 MAY 18, 2021
14 -----

15
16
17 ORAL DEPOSITION OF LEVI NIGEM XENON WALLS, produced
18 as a witness at the instance of the Plaintiff, and duly
19 sworn, was taken in the above-styled and numbered cause
20 on May 18, 2021, from 12:57 p.m. to 4:52 p.m., before
21 Nita G. Cullen, CSR in and for the State of Texas,
22 reported by machine shorthand, at the Law Offices of
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City
24 of Dallas, County of Dallas, State of Texas, pursuant to
25 the Federal Rules of Civil Procedure.

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4

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9 AND

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11 ALSO PRESENT:

12 MR. TIMOTHY JACKSON

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1 PROCEEDINGS

2 LEVI NIGEM XENON WALLS,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. ALLEN:

6 Q. Mr. Walls, my name is Michael Allen, I'm an attorney for Timothy Jackson. I just wanted to talk about some things preliminarily. This will be a very formal conversation, but it's a conversation nonetheless. The deposition is an extension of the Court, and the purpose of the deposition is to find out what evidence you have and what you would say at trial.

13 So, a couple ground rules. If I -- if I say anything that's unclear to you, please feel free to interrupt me and ask for clarification. It's more than possible that it's my unclarity, my incompetence at forming a good question. So, I wouldn't want you to answer a question you didn't understand, is that clear?

19 A. Yes.

20 Q. So, as a corollary to that, if you don't ask for a clarification, I'll assume you understand my question; is that also clear?

23 A. Yes.

24 MR. ALLEN: Matt, in the last deposition, we agreed that all objections except those that go to

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1 technique of analyzing music and scholars who try to
 2 advance or think of the theory behind the technique, or
 3 am I misunderstanding that?

4 A. I don't think I'm making that distinction. I
 5 just think that there is a spectrum -- as with any
 6 research interest, there's a spectrum of, you know,
 7 where people are, in terms of their relationship to
 8 Schenkerian analysis.

9 Some people are interested in it, but don't
 10 rely on it very often or very much for their analyses,
 11 whereas some people do Schenkerian analysis and only
 12 Schenkerian analysis.

13 Q. And of those people, the latter category, who
 14 do primarily or only Schenkerian analysis, can you name
 15 any in the United States that are not on the board of
 16 the Journal of Schenkerian Studies?

17 A. I don't think so. Granted, I don't know every
 18 music theorist in the country.

19 Q. Of course. Let me ask a follow-up question.
 20 You know, how large of a community would you estimate
 21 that community of scholars is, within general terms?
 22 I'm not asking for an exact number, but can you estimate
 23 for me about how many of those, I guess you might have
 24 described them as hard core Schenkerians, if you will.

25 A. Really, I have no idea in terms of a number. I

1 or International Conference on Musical Forum, but those
 2 aren't really a society in the way that SMT is a
 3 society.

4 Q. How large is the Society for Music Theory?

5 A. I don't know how large it is, in terms of
 6 number of members. I recall at some point seeing the
 7 statistics, probably at an SMT meeting, but I have -- I
 8 could not even make a guess, in terms of how many
 9 members there are. Maybe two or 3,000, but that seems
 10 like an overestimate.

11 Q. And do you have knowledge -- do you know
 12 whether Schenkerians are a minority of those members?
 13 And by that I mean the hard core Schenkerians whom you
 14 described earlier.

15 A. Yeah. I would say that they would be a
 16 minority, if we're talking about hard core Schenkerians.

17 Q. A small minority or a sizeable minority?

18 MR. BOHUSLAV: Objection, vague.

19 A. I would really go in between those two. I
 20 wouldn't say it's a small minority, but I think it would
 21 be too far to say it was sizeable minority.

22 Q. (By Mr. Allen) I want to call your attention
 23 to Exhibit 5, again. There's a blue bubble underneath
 24 that much larger bubble of yours. It seems to be
 25 Benjamin Graf speaking again. And he says, "I agree,

1 think that the number has gotten smaller over the years,
 2 whereas Schenkerian analysis was incredibly popular in
 3 the '80s and '90s, including at institutions like CUNY
 4 and Mann's. I think that the number has dwindled over
 5 the last few decades. But in terms of a current number,
 6 I really have no idea how to quantify it.

7 Q. Well, let me put it this way. Is it over 100?

8 A. I think it's safe to say that it would be over
 9 100.

10 Q. And, I mean, in your rough estimation, how many
 11 music theorists are there employed at academic
 12 institutions throughout the United States?

13 MR. BOHUSLAV: Objection, calls for
 14 speculation.

15 A. I honestly have no idea how many academics
 16 there are in music employed in the United States.

17 Q. (By Mr. Allen) What's the primary academic
 18 organization for or professional society for music
 19 theorists in the United States?

20 A. The Society for Music Theory.

21 Q. Is there any other?

22 A. I mean, there are obvious organizations that
 23 would rank below that, in terms of importance. Well, I
 24 suppose I'm mainly thinking of conferences, because I
 25 was about to say -- name a few conferences, like EuroMAC

1 and I am in a similar position. I was editor when Tim
 2 Jackson and Stephen Slottow were my dissertation
 3 advisors. Now, they are my colleagues and on promotions
 4 committees, et cetera, that have a significant stake in
 5 my employment. Volume 12 was largely ready before the
 6 SMT and I was passing the baton to Levi when these ideas
 7 came up."

8 I'm curious about what he means, if you
 9 know, where he says, "they are my colleagues and on
 10 promotions committees, et cetera, that have a
 11 significant stake in my employment."

12 What is he discussing there with you and
 13 Chris Segall?

14 MR. BOHUSLAV: Objection, calls for
 15 speculation.

16 Q. (By Mr. Allen) You were a party to this
 17 conversation, were you not?

18 A. Yes.

19 Q. So, how did you interpret what Benjamin Graf
 20 was saying?

21 A. I assume, since he is tenure track, I believe,
 22 that he would rely on colleagues like Tim Jackson and
 23 Stephen Slottow, rely on their good impressions in order
 24 to advance his career.

25 Q. Do you know of any instance in which Timothy

1 bubbles.

2 **A.** Uh-huh.

3 **Q.** I believe Benjamin Graf is saying, "it's
4 blowing up and honestly we never even wanted to do it,
5 but it's my dissertation advisor and higher ranking
6 colleague, plus we wanted to publish supporting essays."

7 Did I read that correctly?

8 **A.** Yes.

9 **Q.** And you recognize that as Benjamin Graf
10 speaking to you and Chris Segall, right?

11 **A.** Yes.

12 **Q.** What's he referring to, "we never even wanted
13 to do it, and we wanted to publish supporting essays?"

14 MR. BOHUSLAV: Objection, calls for
15 speculation.

16 **A.** I believe he's talking about the -- not
17 plenary -- the -- sorry -- the responses to Ewell --
18 symposium, sorry, the word just flew out of my head.

19 **Q.** (By Mr. Allen) And just to be clear, that's
20 the symposium, which was given in November of 2019,
21 published in Volume 12 of the Journal of Schenkerian
22 Studies?

23 **A.** Yes.

24 **Q.** Is it fair if we just refer to that by
25 shorthand as just "the symposium", for the rest of the

1 a Ewell supporter or you're a person who does

2 Schenkerian analysis.

3 **Q.** Skipping to the next page here, if you could.
4 I'm on page 5, now. You contribute to the conversation.
5 "I can see that -- referring to what was coming before
6 it -- "definitely not something I or Ben considered. We
7 were about to finish the journal, which was supposed to
8 be published in November or early December, when the
9 advisory board got really gungho about a response to
10 Ewell. And so, we made the deadline very short."

11 Can you describe what you're referring to
12 in that statement?

13 **A.** So, I think Chris had expressed the relief that
14 the very short deadline at a busy time of the year,
15 around Christmas, was strategically done in order to
16 limit the number of responses. So, in other words, in
17 order to limit the number of pro Ewell responses. And I
18 said that I could see that reasoning, but it wasn't
19 something that Graf or I had considered.

20 The reasoning at the time had just been
21 that the journal was basically done at the end of the
22 year, and then the SMT in November happened. And
23 suddenly, there was this new section of the journal that
24 we had to do, and so in order to salvage somewhat of a
25 deadline, since it was supposed to be a 2020 journal,

1 deposition?

2 **A.** Sure.

3 **Q.** Okay. Thanks. Again, you understood Benjamin
4 Graf to be saying we never even wanted to do the
5 symposium, correct?

6 **A.** I believe so.

7 **Q.** And "we wanted to publish supporting essays."
8 What does he mean -- how did you understand that to
9 mean, "we wanted to publish supporting essays"?

10 **A.** I believe what he meant was that if the
11 symposium was going to go ahead, that our preference
12 would have been for there to be plenty of essays in
13 support of Ewell, rather than it just being Schenkerian
14 after Schenkerian.

15 **Q.** Is it possible to be a Schenkerian and be pro
16 Ewell?

17 **A.** Sure. I think so.

18 **Q.** And is it possible to be pro Ewell and be, you
19 know, pro Schenkerian analysis?

20 **A.** I think that as Ewell has done, you can admit
21 that Schenkerian analysis has analytical uses, but also
22 that it has a history with a race that's very
23 questionable and deserves to be questioned.

24 And so, I don't think that there is this
25 necessity to be black and white, in which you're either

1 the call was just made very short.

2 **Q.** Did other people at the journal discuss
3 manipulating the deadline to exclude pro Ewell points of
4 view?

5 **A.** No.

6 **Q.** And you also say, if you skip down one bubble
7 after Benjamin Graf's blue bubble there, it says,
8 "Volume 13 would have been preferable," correct?

9 **A.** Yes.

10 **Q.** Is that something you argued for at the time?

11 **A.** I don't think I argued for putting the
12 symposium in Volume 13. I think the view at the time
13 was that it was timely for it to go in Volume 12.

14 **Q.** And what would make it timely? Can you
15 describe the thought process of you, as an editor, of
16 are what you were fielding as questions by anyone on the
17 editorial board? What was making it timely?

18 **A.** Well, if there was going to be a symposium
19 based on Ewell's talk, it would make sense for it to
20 occur a month or two after Ewell's talk, rather than a
21 year and month after Ewell's talk.

22 On the other hand, putting it in Volume 13,
23 even though it would have been delayed, would have been
24 preferable from the standpoint that there would have
25 been more time to, you know, allow people to write

1 responses.

2 Q. It was certainly a lot of work for you, right?

3 A. Sure.

4 Q. It would seem that you worked very hard on this
5 project, correct?

6 A. Well, it was my job.

7 Q. Were you -- did anyone comment about your hard
8 work on the project at the time, that it was deficient
9 in any way or that you weren't holding up your end?

10 A. No. I think I did well in typesetting the
11 articles and getting rid of typos and, you know, looking
12 at structure.

13 Q. And Levi Walls, reading your name "Levi" on the
14 next page, page 6. I'm sorry to call you by your first
15 name, but it's just that's the name on the thread, no
16 disrespect intended. You know, about two sentences
17 down, it says, "I like the job in general, because I
18 love editing and being involved in research, but I'm not
19 in a position to go against the people who control the
20 journal." You see that?

21 A. Yes.

22 Q. Describe your position on the journal and how
23 you felt you were able to discuss the initiatives of the
24 journal with other people on the editorial board for me.

25 A. Well, when it came to discussions of what

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1 should and shouldn't go into the journal, even if I had
2 reservations, I generally kept them to myself.

3 Q. Describe your interactions with authors in the
4 editorial process. How did you interact with the
5 authors?

6 A. Mostly, I gave comments on readability and if
7 there was something that they wrote that I thought was,
8 you know, clumsy or awkward, well, I wouldn't have said
9 "clumsy" to them, that would have come off as rude. But
10 if the wording was somehow unclear, I would have
11 suggested an alternate wording. And, obviously, if they
12 were clear typos, I would have suggested changing those.

13 Generally, closest I got to content, at
14 least in the -- you know, well, I suppose in both the
15 large scale articles and the symposium would be comments
16 about, like, argumentative structure. Like, if I saw an
17 argument that just rhetorically wasn't clear, but that
18 really doesn't have much to do with like the content of
19 it.

20 The closest I got to talking about content
21 was with one of the contributors, Barry Wiener. And I
22 expressed some concern over the tone. But after that, I
23 stopped doing that.

24 Q. And this was an author you now characterize as
25 having published a racist article, correct?

1 A. Yes.

2 Q. And did you recognize his article as racist at
3 the time?

4 A. Yes.

5 Q. And did you leave any writing indicating that
6 you felt his article was racist?

7 A. I did not tell him that his article was racist.
8 I said that the tone was -- I don't recall exactly what
9 I said, but I think I said something along the lines
10 that the tone was confrontational and that his arguments
11 would come out better if it was not as confrontational
12 or if he was less, I don't know, confrontational towards
13 left politics?

14 Q. Is it racist to be confrontational, is that
15 what you mean?

16 A. I don't believe it's racist to be
17 confrontational in itself. I believe it's racist to say
18 something along the lines of, left politics being part
19 of reeducation camps.

20 Q. Did his article say that?

21 A. I believe that was in that article. I could be
22 mistaken, it could have been in another article.

23 Q. And you write here, in fact, you have the
24 exhibit, "I also don't want to lose my job." Do you see
25 where you said that?

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1 A. Yes.

2 Q. Did anyone ever threaten you with losing your
3 job at the journal?

4 A. No.

5 Q. In fact, you quit you said, I think, July 29th,
6 2020, if I'm not mistaken, or thereabouts?

7 A. Yes. And I was encouraged to leave by Benjamin
8 Brand.

9 Q. Benjamin Brand being the department chair or
10 division chair MHTE.

11 A. Yes.

12 Q. I'm always afraid I'm transposing the letters.
13 So, he essentially told you to leave the job, is that
14 it?

15 A. He didn't tell me to leave the job, but he knew
16 I was unhappy in the job, especially in the recent
17 months leading up to July. Really, from November to
18 July. Pre-November, pre-SMT, I was actually rather
19 happy with the job, just working on those three academic
20 articles.

21 And up to that point, the input from the
22 editorial board was a lot less. It was after the SMT
23 that it became very micromanaged, and that's about the
24 point where I started to dislike the job.

25 So, Brand knowing that I was already

1 unhappy in the job and had already been concerned about
 2 my name being attached to something that was racist,
 3 encouraged me to leave the position. And, mainly, did
 4 that by saying that my funding would be okay if I did,
 5 that I would have a position as a TA, which was my main
 6 concern.

7 Q. Which is what you've done now, correct? You've
 8 continued as a TA, correct?

9 A. Yes.

10 Q. And no one was issuing statements for you to be
 11 fired, correct?

12 A. No.

13 Q. And it was -- you were becoming dissatisfied
 14 with the job, you said from November up through July, so
 15 sounds like from the Philip Ewell talk through the
 16 publication of the journal and the resulting fallout,
 17 because of the racist content of the journal.

18 A. Yes.

19 (DEPOSITION EXHIBIT 7 MARKED.)

20 Q. (By Mr. Allen) I think you're on this e-mail,
 21 Mr. Walls. Is this your e-mail, LeviWalls@my.unt.edu?

22 A. Yes.

23 Q. Do you recall this e-mail?

24 A. Yes, I do.

25 Q. And isn't it true that this e-mail discusses

1 Q. But you know for a fact no call for papers for
 2 a Volume 13, as a kind of follow-up to the symposium
 3 ever went out.

4 A. I don't know that for a fact. I just haven't
 5 seen one. As far as I know, no call ever went out for
 6 Volume 13.

7 Q. Did you prepare any such call for papers?

8 A. No.

9 Q. You participated directly in the call for
 10 papers that went out for the symposium, correct?

11 A. Yes.

12 Q. Isn't this a normal part of editorial practice,
 13 to call for responses to controversial articles that
 14 have been published?

15 A. To the best of my knowledge, I think that's
 16 normal, although I got a sense from other people that
 17 what would have been more standard would have been to
 18 specifically invite Ewell from the beginning.

19 Q. Do you know that Ewell was not invited to
 20 participate in the symposium?

21 A. He wasn't directly or explicitly invited.

22 Q. Was he invited in some way?

23 A. It is true that the call went out general or
 24 generally through the SMT list, I think, and so,
 25 theoretically, he might have had access to the call, if

1 having a response from Ewell and others who might want
 2 to respond to the symposium in a Volume 13?

3 A. I have to remind myself everything that was
 4 said in this e-mail. Could I just have a moment to
 5 review it?

6 Q. Of course. Of course. I should have said that
 7 at the beginning, and I'm sure your attorney would have
 8 objected if I forced you to comment on a document that
 9 you couldn't read. If at any time you need time to
 10 examine a document, please just say so.

11 A. All right. What was your question?

12 Q. So, this e-mail discusses having a response
 13 from Ewell, as well as others, to the symposium in
 14 Volume 13, which would have appeared in the next
 15 subsequent volume of the Journal for Schenkerian
 16 Studies, correct?

17 A. Yes.

18 Q. Do you know if a call for papers ever went out?

19 A. For Volume 13?

20 Q. Correct.

21 A. Not that I know of.

22 Q. Why not?

23 A. I mean, I assume if it went out, it would have
 24 went to SMT list, but I actually don't keep track of
 25 it -- SMT list, that is.

1 he keeps track of the SMT list, which I mean, I imagine
 2 he does, but he wouldn't have been invited specifically.

3 Q. Do you know if Ewell participated in any of the
 4 authors' publications that were pro-Ewell that appeared
 5 in the symposium, by either consulting with them or
 6 reading their papers in advance or in any form like
 7 that? Did you have any knowledge of that, as an editor?

8 A. I think one of the articles mentioned in --
 9 sorry -- acknowledgments that they consulted with Ewell,
 10 just asking his opinion on what they wrote, but I
 11 don't -- I want to say Lett's, that could be wrong.
 12 Stephen Lett.

13 Q. Stephen Lett's publication, is that what you're
 14 referring to?

15 A. Yes. I believe that was the one with the
 16 acknowledgment mentioning that they ran it by Ewell for
 17 comments.

18 Q. So if someone said Ewell had no notice that the
 19 symposium was going to be published, that would be
 20 false, correct?

21 MR. BOHUSLAV: Objection, calls for
 22 speculation.

23 A. I think he had notice, but it seemed to me --
 24 and, again, I don't really know Ewell's frame of mind --
 25 it seems as if he wanted a direct invitation, that if

1 specific theoretical issues, but they chose to
 2 specifically focus on just the direction that the
 3 plenary took, in terms of like being on social issues or
 4 being left of center.

5 **Q.** Do you consider, for instance, Philip Ewell's
 6 views to be left of center?

7 **A.** Yes.

8 **Q.** Do you consider them to be moderate views?

9 **A.** Yeah. I would say that they're moderate.

10 **Q.** How would you characterize his paper in its
 11 substance? If you could summarize his paper in three
 12 sentences, how would you summarize it?

13 **A.** I mean, that's quite a task. But I would say
 14 that primarily his paper focused on the -- really,
 15 the -- what's the word I'm looking for? I suppose the
 16 debt that music theory has, and to a somewhat lesser
 17 extent musicology, the debt that it has to white
 18 supremacist narratives, mainly seen through issues of
 19 canon, what works are and aren't focused on in academia.
 20 And as a part of that, he focused on Schenker as a case
 21 study, since Schenker is a widely practiced methodology
 22 in North America.

23 **Q.** And is the objection to those opinions what
 24 you're referring to here? I'm looking at the second
 25 sentence, which is quite long, but I'm going to -- look

1 Studies, correct?

2 **A.** Yes.

3 **Q.** And they were reacting to what you
 4 characterized as the content of Ewell's paper, as you
 5 just summarized, correct?

6 **A.** Yes.

7 **Q.** Did this meeting take place between you and Dr.
 8 Brand?

9 **A.** Yes.

10 **Q.** And what did you discuss in that meeting?

11 **A.** I told him that I was worried about what the
 12 journal was going to print, because it seemed as if
 13 people were really angry about Ewell's paper, and I
 14 didn't want the journal to print anything explicitly
 15 racist or implicitly racist, and I was afraid that they
 16 were going to, and so I just told him that I was worried
 17 about that.

18 **Q.** Were you worried about the effect this would
 19 have on your career, too?

20 **A.** Yeah. I was worried. I was a little bit more
 21 worried about the reputation of the school and the
 22 departments, but I was also worried about my own
 23 reputation as being someone who -- whose name would be
 24 on the journal.

25 **Q.** What else did you talk about with Dr. Brand?

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1 where it refers to Burkhart, Eric Wen and Damschroder,
 2 and you say, "who I know to have particularly vitriolic
 3 opinions about Ewell and his paper." Is it the
 4 objection to those ideas which you summarized what you
 5 meant when you wrote that to your chair, Benjamin Brand?

6 MR. BOHUSLAV: Objection, vague, compound.

7 **A.** Could you re -- or could you be a little bit
 8 more clear?

9 **Q.** (By Mr. Allen) Sure. I'll just withdraw the
 10 question, please.

11 Let me read the sentence. "Even though we
 12 put out a CFP that I specifically framed in a way that
 13 emphasizes that responses should be thoughtful and
 14 neutral in tone, Dr. Jackson has been privately
 15 soliciting responses from people (Burkhart, Eric Wen,
 16 Damschroder) who I know to have particularly vitriolic
 17 opinions about Ewell and his paper." Did I read that
 18 correctly?

19 **A.** Yes.

20 **Q.** And you wrote that, right?

21 **A.** Yes.

22 **Q.** And the particularly vitriolic opinions about
 23 Ewell and his paper, those you were identifying as the
 24 opinions of the hard core Schenkerians, among whom many
 25 were on the board of the Journal for Schenkerian

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1 **A.** I mean, it wasn't a really long meeting. I
 2 don't recall exactly how long it was, maybe 20 minutes,
 3 and so that's mainly what we stuck to. He did express
 4 the idea that there wasn't much to worry about and that
 5 I shouldn't be very worried, that if -- you know, if the
 6 journal did express racist -- people who contributed to
 7 the journal expressed racist beliefs, then those were
 8 their beliefs and not necessarily my own.

9 **Q.** Did he express any desire or need to eliminate
 10 the journal at that time?

11 **A.** No.

12 **Q.** Did he express any belief or desire to remove
 13 Timothy Jackson from the editorial board?

14 **A.** No.

15 **Q.** To remove Stephen Slottow from the editorial
 16 board?

17 **A.** No.

18 **Q.** To replace you with a tenured faculty member in
 19 any way?

20 **A.** No.

21 **Q.** And was there anything else you discussed with
 22 Benjamin Brand in that 20-minute meeting?

23 **A.** Let me think. We did briefly discuss the -- as
 24 I understood it, the history of Dr. Jackson's
 25 understanding of race, and that I didn't have a lot of

1 discourse?

2 **A.** Well, there were a few instances. At one
3 point, when discussing Meyerbeer Opera, he used the term
4 negro, not necessarily in a case that would have been
5 warranted historically. And in another case, he
6 expressed worry about when he was in school being mugged
7 by black people when he was carrying around his scores.
8 That he carried scores around New York a lot, and he
9 would see black people look at him a certain way and
10 would be worried that he was going to be mugged, which
11 seemed incredibly ignorant.

12 **Q.** When was this, like in the 1970s, 1980s, do you
13 know?

14 **A.** I don't recall exactly when he went to school,
15 but I would guess 1980s.

16 **Q.** Do you know what the crime rates were at that
17 time?

18 **A.** Nope.

19 **Q.** Do you think there's any objective basis to
20 fear that he might be mugged on the streets of New York
21 in the 1980s?

22 **A.** I think that there is a basis to fear mugging
23 anywhere in the U.S., in any state at any time, but not
24 specifically by one group over another.

25 **Q.** So, you would believe that it is racist to

1 we've discussed politically correct discourse, and you
2 say in your sentence, politically correct discourse and
3 race relations. What I'm trying to ask you is, what are
4 you referring to in the phrase "race relations" that we
5 have not discussed in terms of politically correct
6 discourse?

7 **A.** I suppose just defining race relations would be
8 the really relating to societal structure, including
9 things like hegemony, like which classes of people tend
10 to get resources and which don't. That's, I think, what
11 I meant by race relations.

12 **Q.** So, differences in the distribution of wealth,
13 is that what you mean?

14 **A.** Yes, among other things.

15 **Q.** What other factors do you mean by hegemony?
16 I'm really unsure what hegemony means.

17 **A.** Just basically the status quo. In this case,
18 the -- really the uneven distribution of wealth
19 following as -- what's the word -- as a consequence of
20 an entire group of people having been enslaved 200 years
21 ago.

22 **Q.** And by that, you mean black Americans.

23 **A.** Yes.

24 **Q.** And anything else you mean by hegemony in race
25 relations?

1 believe that statistics showing that certain groups of
2 people are more likely, on average, to commit crimes
3 than other groups would not be a rational basis for
4 opinions.

5 **A.** Yes.

6 **Q.** Whether or not those statistics have any basis
7 in reality.

8 **A.** Yes.

9 **Q.** And that was part of Jackson's woeful ignorance
10 about politically correct discourse, correct?

11 **A.** Yes.

12 **Q.** And you would believe that any professor, not
13 just Professor Jackson, should hue and observe
14 politically correct discourse, is that your basic
15 belief?

16 **A.** Yes.

17 **Q.** And is there anything in the category race
18 relations that you believe is included in politically
19 correct discourse that we haven't discussed as part of
20 politically correct discourse?

21 MR. BOHUSLAV: Objection, vague.

22 **A.** Yeah, I'm a little turned around by that
23 question. Could you rephrase it?

24 **Q.** (By Mr. Allen) Yeah. Let me strike that
25 question. What I'm trying to get at, Mr. Walls, is

1 **A.** I suppose not.

2 **Q.** You also say -- I'm skipping down yet again to
3 the bottom of that page -- "I feared retaliation from
4 Timothy Jackson because" -- let me start that again. "I
5 feared retaliation from Timothy Jackson: He is an
6 incredibly well-connected and influential figure in
7 Schenkerian circles."

8 So, I think you had expressed in that first
9 text message thread with Christopher Segall that you
10 feared retaliation, correct?

11 **A.** Yes.

12 **Q.** And you're repeating that fear here.

13 **A.** Yes.

14 **Q.** And I believe that this being July 27th is
15 approximately the same time frame, is that correct?

16 **A.** Yes.

17 **Q.** And we established already that you can't
18 really identify any specific incident in which you were
19 retaliated against, correct?

20 **A.** No. Because I was very careful not to give him
21 reason to retaliate against me up until that point.

22 **Q.** So, your position is that you might have been
23 retaliated against, but for not saying things or
24 something of that nature.

25 **A.** I was sure I would have been.

1 **Q.** What made you sure?

2 **A.** Talking to people who have been retaliated
3 against, and just knowing -- just how he is, in terms of
4 getting his own way about things.

5 **Q.** Who had Timothy Jackson retaliated against in
6 the past?

7 **A.** Yiyi Gao.

8 **Q.** Anyone else you can think of?

9 **A.** I don't remember her last name, but a previous
10 Schenker RA, Rachel something.

11 **Q.** Would it be Rachel Gain?

12 **A.** It was not Rachel Gain.

13 **Q.** So, you can't remember the name of this other
14 Schenker RA?

15 **A.** I don't recall her last name. We never really
16 spoke in person. I was just told about their problems
17 from another person, David Falterman, who also
18 expressed -- expressed grievances about retaliation.

19 **Q.** David Falterman?

20 **A.** David.

21 **Q.** David.

22 **A.** Yeah.

23 **Q.** Can you spell his last name, if you know it?

24 **A.** F-A-L-T-E-R-M-A-N.

25 **Q.** And would the Rachel be Rachel Anderson, by any

1 **A.** I'm sure it is because the issue was, as I
2 understand, taken up with administration.

3 **Q.** So, this was vetted with the administration, as
4 far as you know?

5 **A.** As far as I know.

6 **Q.** Do you agree that a student should not get a
7 passing grade for work that's not passing?

8 **A.** But the work was passing. That's why I got a
9 passing grade.

10 **Q.** How do you know that?

11 **A.** Because I got a passing grade.

12 **Q.** I thought you said it was changed from a
13 passing to failing grade.

14 **A.** It was changed from a passing to failing grade,
15 when the student didn't do what they wanted -- what Dr.
16 Jackson wanted.

17 **Q.** What was that?

18 **A.** To keep typesetting materials after the
19 independent study had ended.

20 **Q.** So, your view is or your understanding of this
21 so-called retaliation was requiring a student to keep
22 typesetting work after a semester had ended for which
23 they got a passing grade.

24 **A.** Yes. A student should not be ordered to
25 continue work that they are no longer getting school

1 chance?

2 **A.** I'm really not sure.

3 **Q.** So, you can't identify the second person,
4 correct?

5 **A.** I just simply don't remember their last name.

6 **Q.** And you knew about it only through other people
7 telling you things.

8 **A.** I knew about it through David, who talked to
9 them.

10 **Q.** And do you know if David Falterman -- if David
11 Falterman experienced any retaliation?

12 **A.** He said that he did, although he didn't go into
13 detail.

14 **Q.** And do you know any of the details about the
15 supposed retaliation against the Schenker RA?

16 **A.** I don't know the specific details.

17 **Q.** How about Yiyi Gao, what do you know about
18 supposed retaliation against this individual?

19 **A.** That one, I know more about. I know that there
20 was a point where they were asked to keep typesetting
21 materials after an independent study had ended, and they
22 couldn't because they were going home to see family.
23 And when they said that, Dr. Jackson retroactively
24 changed their passing grade to a failing grade.

25 **Q.** And do you know if this is documented anywhere?

1 credits for.

2 **Q.** So, she should have got a non-passing grade and
3 not have been afforded the opportunity to finish that
4 work. Is that what you understand?

5 **A.** They got a passing grade because I assume they
6 finished the work or else they wouldn't have gotten a
7 passing grade. It's only when they refused to keep
8 doing work that they were given a failing grade.

9 **Q.** Do you have any knowledge of whether the work
10 up to that point was unsatisfactory or not?

11 **A.** No. I assume it was just by virtue of the fact
12 that it was given a passing grade.

13 **Q.** So, the basic point is, you don't really
14 understand the circumstances that led to this passing
15 grade supposedly being given, correct?

16 **A.** I don't know all the circumstances, I just know
17 that it was wrong.

18 **Q.** And did you hear this from Yiyi Gao directly?

19 **A.** I don't remember who I heard it from. It might
20 have been from Yiyi, or it might have been from a mutual
21 friend.

22 **Q.** So, you can't identify now where you heard
23 this.

24 **A.** I think it was Yiyi, I'm just not 100 percent
25 certain.

1 there's something I'm forgetting, okay?

2 MR. BOHUSLAV: Okay.

3 (OFF THE RECORD FROM 4:46 TO 4:51 P.M.)

4 Q. (By Mr. Allen) Mr. Walls, I just had one last
5 question, and it goes back to the meeting in the car you
6 had with Professor Jackson, which you described in the
7 middle of a snowstorm in February at some point. Did I
8 characterize that correctly?

9 A. I wouldn't call it a snowstorm. It was just
10 lightly snowing.

11 Q. And did you go into the car to escape the
12 weather?

13 A. That was how he suggested it.

14 Q. Did he use force in any way?

15 A. No.

16 Q. Did he use coercion in any way?

17 A. No. I could have said "no".

18 Q. Thank you. And so, he didn't threaten you, if
19 you did not go into his car.

20 A. No. But he suggested that we go into the car,
21 and I just have trouble saying no to people who are my
22 advisor. And so, even though I was uncomfortable, I
23 went into the car.

24 Q. But you said you could have said no, correct?

25 A. Yes.

Levi Nigem Xenon Walls 5/18/21

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1 MR. ALLEN: Okay. That's all. I pass the
2 witness to you, Mr. Bohuslav.

3 MR. BOHUSLAV: We'll reserve till time of
4 trial.

5 MR. ALLEN: Thank you so much. Thank you
6 for your time. Good luck with your graduate studies.

7 (DEPOSITION ADJOURNED AT 4:52 P.M.)

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE EASTERN DISTRICT OF TEXAS

3 SHERMAN DIVISION

3 TIMOTHY JACKSON,)

)

4 Plaintiff,)

) Case No.

5 v.)

) 4:21-cv-00033-ALM

6 LAURA WRIGHT, et al,)

)

7 Defendants.)

)

8

9 -----

10 DEPOSITION CERTIFICATE

11 LEVI NIGEM XENON WALLS

12 MAY 18, 2021

13 -----

14

15 I, Nita G. Cullen, Certified Shorthand
16 Reporter in and for the State of Texas, hereby certify
17 to the following:

18 That the witness, LEVI NIGEM XENON WALLS, was
19 duly sworn by the officer and that the transcript of the
20 oral deposition is a true record of the testimony given
21 by the witness;

22 I further certify that pursuant to FRCP Rule
23 30(f)(1) that the signature of the deponent:
24 _____ was requested by the deponent or a

25 party before the completion of the deposition and is to

Levi Nigem Xenon Walls 5/18/21

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1 be returned within 30 days from date of receipt of the
2 transcript. If returned, the attached Changes and
3 Signature Page contains any changes and the reasons
4 therefor;

5 _____ X was not requested by the deponent or a
6 party before the completion of the deposition.

7 I further certify that I am neither attorney
8 or counsel for, nor related to or employed by, any of the
9 parties or attorneys to the action in which this
10 deposition was taken.

11 Further, I am not a relative or employee of
12 any attorney of record in this case, nor am I financially
13 interested in the outcome of the action.

14 Subscribed and sworn to on this 14th day of
15 June, 2021.

16

17

18

NITA G. CULLEN, Texas CSR #1563

19 Expiration Date: 08-31-2022

JULIA WHALEY & ASSOCIATES

20 Firm Registration No. 436

21 2012 Vista Crest Drive

Carrollton, Texas 75007-1640

22 214.668.5578

23

24

25



Levi, Chris
Active Now



You created this group

7/25/20, 10:45 PM

Levi, Chris and I wanted to start a thread so that we can discuss some of the matters with JSS

Levi



Hi Chris and Ben. I'm glad we can talk!

So he understands that this was not our idea and that it came from the advisory board.

Chris, we are open to discussion because we really were not at the forefront of this initiative

I have to go to sleep now, I'm in another time zone.

But I'm glad we can talk

Levi



Oh, I thought we were going to talk now

Chris



Great, thanks for setting up this chat! We can just talk tomorrow if you like.

Levi



Oh, alright. No problem



Chris



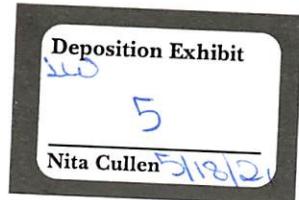
Or Levi, just you and me.

Levi



Do you mind, Ben?

UNT_000442





Levi, Chris
Active Now



I don't mind!

Levi

Alright. Hi Chris. So, I want to let you know that I'm really on twitter's side for most of this. I don't have twitter, but I've been seeing a lot of the criticism, which is very justified. If it were up to me, people on the advisory board would not be allowed to publish in the journal, because that kind of destroys all accountability. I must admit, that I'm new to all of this. I assumed what would happen would be that we would have a second round of responses (responses to responses) at which point Phil would be able to respond (which is something that Ben and I really wanted).



Chris

Hey Levi, I really enjoyed working with you on my essay. It seems clear that you're in a precarious position as a graduate student editor. Any red flags that come up, you probably aren't in a position to do anything about.



Yes exactly Levi

Chris



I can definitely say that I assumed that Phil was involved in some sort of way.

I agree and I'm in a similar position. I was editor when Tim Jackson and Stephen Slottow were my dissertation advisors. Now, they are my colleagues and on promotions committees, etc. that have a significant stake in my employment. Volume 12 was largely ready before the SMT and I was passing the baton to Levi when these ideas came up.

Chris

Definitely. Totally clear as well.

UNT_000443

So what do you guys know about the invitations for rebuttals to Phil's talk?

Levi, Chris
Active Now

Someone I know was directly invited to submit something, but he declined.

Levi and I were the ones that sought out to make a call, and we actually tried to solicit more women and PoC!

I know Tim solicited done on his own. But for us, we can't go in and intercept his emails to people

Some*

Levi
I did not know about rebuttals. What venue were those in? I assume they are forthcoming.

Chris do you mean responses to Ewell?

Chris
By rebuttals I mean all the negative essays in Volume 12.

Or responses to JSS?

My guess is that Tim Jackson solicited a lot on his own. But, it's hard to trace because if he wrote people via his own email and encouraged them to submit then Levi won't know

Levi
Oh, I see. No, I hadn't heard. Obviously, any debate is great. I know Ben and I were hoping for as many positive responses as possible in the JSS volume. But a significant portion of people that submitted were in the other camp.

Chris
Got it! It's crazy that you guys as editors didn't even know that some responses were solicited behind the scenes.

UNT_000444



Levi, Chris
Active Now



were solicited behind the scenes.

I totally agree; we wanted to see more

It's blowing up and honestly we never even wanted to do it

But it's my dissertation advisor and higher ranking colleague, plus we wanted to publish supporting essays

I would nominate a name change for the center and the JSS— by the way



I think with the current advisors it would possibly not pass

Levi



I would as well. Jackson and Slottow would not allow it though.

So that's the battle we are fighting

Chris

You guys are definitely in a really difficult position here. I can tell you that when I first saw the CFP—with its very fast deadline at a very busy time of year—I assumed it was constructed to discourage submissions. The Journal of Schenkerian Studies is already a very conservative journal. Prior to its founding in 2006, and especially in the 1980s and '90s, there was no need for a Journal of Schenkerian Studies because Music Theory Spectrum was already effectively a journal of Schenkerian studies. So given the venue and the CFP, I was assuming negative responses. That's part of why I was motivated to contribute. I wanted there to be something in support of Phil.

Levi

I can see that. Definitely not something I or Ben considered. We were about to finish the journal, which was supposed to be published in November or early December, when the advisory board got really gungho about a response to Ewell.

UNT_000445





Levi, Chris
Active Now



Levi

I can see that. Definitely not something I or Ben considered. We were about to finish the journal, which was supposed to be published in November or early December, when the advisory board got really gungho about a response to Ewell. And so, we made the deadline very short.



I definitely see your point!! We are so so happy you wrote. Part of the reason we had a shorter call is because we had vol 12 ready and we needed to get it to our publishers. We should have ushered the whole thing to volume 13!! I think you should write the letter, but address the advisory board, and state how the editors were in a compromised position.

Levi

Yes, putting it in volume 13 would have been preferable.

Pushed* the whole thing

Chris I have to go, but thank you for hearing us out. There needs to be action here and I am glad we talked. I want to continue but it is really late here

Levi

No worries, Ben.

Chris

Totally fine, Ben. Thanks for reaching out.

Levi, are you in any position at all to distance yourself from the journal issue?

And it's okay if that's impossible. Ben's suggestion to state that you were in a compromised position will work.

Levi

UNT_000446

I tried to do that with the opening to the symposium. I tried to do it in such a way



Levi, Chris
Active Now



Levi

I tried to do that with the opening to the symposium. I tried to do it in such a way that I wasn't explicitly stating that I was opposed to the responses from most of the Schenkerians. Over the course of all this, I feel like I'm between a rock and a hard place. I like the job in general, because I love editing and being involved in research, but I'm not in a position to go against the people who control the journal. As the editor of the journal going forward, I really want to take it in a better direction. But I'm worried that I can't.



Levi

And I also don't want to lose my job because I have a baby to support. So I don't know what to do.



Chris

Then I think the best thing we can do is to really clarify in the letter that the editors are a graduate student and recent graduate, and that it's the advisory board who makes all the decisions. Any condemnation must be directed at the advisory board.



Levi

I know that Dr. Jackson stated in an email chain that he wanted any emails to be directed toward him. I mean, I'm sure he will get them anyway (as his contribution was pretty horrendous). I'm being quite candid with you; lately I've been trying to figure out how to distance myself from him (because he's my advisor) without causing any fallout. This is all just so much.



Chris

It may be best for the advisory board to resign. The open letter may well call for that, I don't know.



7/27/20, 1:51 AM

Chris

Hey Ben, hey Levi. Would you feel comfortable confirming some information I

UNT_000447

 Levi, Chris
Active Now



Chris

7/27/20, 1:51 AM

Hey Ben, hey Levi. Would you feel comfortable confirming some information I received? Apparently some contributors, those that Tim Jackson reached out to directly, were allowed to submit their essays as late as mid-March. Is that true?

Again, it's okay if you don't feel comfortable responding.

Chris

Also, one suggestion that's come up is for SMT to create a policy for supervising grad student journal editors.

7/27/20, 5:30 AM

Levi

Hey, sorry for the late response. I'm not sure what the latest submission was that he asked us to take. I know that the journal was already submitted to the publisher by mid March, so maybe late February or early March at the latest. But yes, we were told to take late submissions without questions. He had a general disregard for deadlines. I can't say that it was 100 percent tailored towards authors of his choosing because he had us take Clark's submission late, but certainly the positive articles were more observant of the deadline. And also, I don't think Clark was more than a few days late, if I remember correctly. Does that help? I think that, had there been guidelines like that in order, the experience at the journal would have been much better for me. So I hope that they continue to pursue that.

30 AM



Yes

7/27/20, 7:02 AM

Chris

7/27/20, 8:53 AM

Thank you both. I have this information from a couple of sources now, so if I mention the late deadline, I won't have to implicate any single source. Much appreciated.

UNT_000448

John Toaru Ishiyama, Ph.D. 9/27/24

1

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF
3 SHERMAN DIVISION
4 TIMOTHY JACKSON,)
5 Plaintiff,)
6 vs.) CASE NO. 4:21-CV-00033-ALM
7 LAURA WRIGHT, et al.,)
8 Defendants.)
8 *****

9 VIDEOTAPED ZOOM ORAL DEPOSITION OF
10 JOHN TOARU ISHIYAMA, Ph.D.

11 September 27, 2024
12 (Reported Remotely)

13 *****
14 VIDEOTAPED ORAL DEPOSITION OF JOHN TOARU ISHIYAMA,
15 Ph.D., produced as a witness at the instance of the
16 Plaintiff and duly sworn, was taken in the above-styled
17 and -numbered cause on the 27th day of September, 2024,
18 from 9:13 a.m. to 12:35 p.m., before Kim D. Carrell,
19 Certified Shorthand Reporter in and for the State of
20 Texas, reported remotely by computerized stenotype
21 machine at the University of North Texas System,
22 801 North Texas Boulevard, Gateway Suite #308, Denton,
23 Texas, pursuant to the Federal Rules of Civil Procedure
24 and the provisions stated on the record or attached
25 hereto.

John Toaru Ishiyama, Ph.D. 9/27/24

3

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	EXHIBITS	
10 NUMBER	DESCRIPTION	MARKED
11 Exhibit 1	Re-Notice of Taking Deposition.....	7
12 Exhibit 2	Email Chain Ending 8-3-20, Cowley to Ishiyama, Request to Serve on Ad Hoc Review Panel (UNT 002453 - 002454).....	20
15 Exhibit 3	Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233).....	23
16 Exhibit 4	COPE Guidelines: A Short Guide to Ethical Editing for New Editors (UNT 003303 - 003314).....	34
18 Exhibit 5	Theoria Title Page, List of Articles, Directions to Contributors, Volume 26-2020.....	43
20 Exhibit 6	Emails ending 10-14-20, Ishiyama to Jackson, et al. RE: Talk With UNT Ad Hoc Journal Review Panel (UNT 002634 - 002635).....	50
23 Exhibit 7	Handwritten Notes, 9-16-20, Ad Hoc Journal Review Committee.....	63
24 Exhibit 8	Potential Questions for Benjamin Brand Chair of the Division of History, Theory & Ethnomusicology.....	68

John Toaru Ishiyama, Ph.D. 9/27/24

2

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John Toaru Ishiyama, Ph.D. 9/27/24
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2 Exhibit 9	PLoS Medicine Article, What Should Be Done to Tackle Ghostwriting in the Medical Literature.....	71
4 Exhibit 10	Walls Facebook Post (JACKSON 000234 - 000236).....	81
5 Exhibit 11	Email Chain ending 9-30-20, Walls to Ishiyama (UNT 002533).....	83
7 Exhibit 12	Jackson Materials for the Committee (UNT 002645 - 002782).....	99
9 Exhibit 13	Email, 10-2-20, Ishiyama to TitleIX, et al. Reporting on an Incident (UNT 003435).....	117
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1 **A.** Yes. I don't recall him specifically saying it
 2 to us in our testimony, but he did seem to indicate that
 3 he had little control over the content.

4 **Q.** Did -- sorry, go ahead.

5 **A.** Even as editor.

6 **Q.** He also said he was -- it was an extremely
 7 shameful position to be the editor at the Journal of
 8 Schenkerian Studies?

9 MS. QUIMBY: Objection, form.

10 **A.** He may have. I do not recall. But it's his
 11 testimony and it appears here in writing, so...

12 **Q.** And you received this email, right?

13 **A.** Yes, although I don't recall specifically
 14 word for word what the email said, but...

15 **Q.** He also went on to give some concrete examples.
 16 For instance here, let's just read this, which I'm going
 17 to highlight briefly for the purpose of our testimony.

18 "For the first few months, the job seemed fine
 19 as I got to work with three articles on various topics.

20 Typesetting and offering clarity related edits."

21 **A.** Um-hum.

22 **Q.** However, after Philip Ewell's SMT presentation,
 23 Timothy Jackson decided that it was the responsibility of
 24 the Journal to, quote, protect Schenkerian analysis.

25 "Although, after serious thought, I

John Toaru Ishiyama, Ph.D. 9/27/24
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 1 essentially agreed with Ewell's talk. It was not up to
 2 me what did or did not go into the journal. After seeing
 3 some of the responses, I started to become incredibly
 4 worried. I gave comments to one author, including
 5 that they seemed to devalue other fields of study, that
 6 they cherrypicked information to make Schenker appear
 7 in a better light, and that they confused cultural
 8 appropriation with egalitarianism. Shortly after, I was
 9 told by Timothy Jackson (my superior in at least three
 10 senses: A tenured faculty member who ran the journal and
 11 also served as my academic advisor) that it was not my
 12 job to censor people. After this, things continued to
 13 go in a direction that I found to be disgusting."

14 Did I read that correctly?

15 **A.** Yes, you did.

16 **Q.** Did that implicate the processes by which the
 17 journal was published?

18 **A.** Well, some of it did. Not -- much of
 19 it had to do with the content. Again, which I have to
 20 reiterate, we ignored the content of the articles and
 21 what was being said. But the power differential between
 22 Levi Walls who's officially the editor of the journal --

23 **Q.** Sure.

24 **A.** -- and the actual process by which decisions
 25 were made, that is -- that is something that we did

1 consider.

2 **Q.** Okay. And did you include that in the Ad Hoc
 3 Panel Report?

4 **A.** Yes, the power differential is clearly
 5 indicated as a problem with the journal. It has been a
 6 problem for some time.

7 **Q.** And it caused him not to be able to assert his
 8 own editorial views; is that correct?

9 **A.** That would be true. That's also something that
 10 Dr. Graf said as well, the previous editor.

11 **Q.** And now, I know you didn't, as you say
 12 apparently, address the content of the journal. That
 13 was a matter of indifference to you, I suppose. But he
 14 also says here that he thought he essentially agreed with
 15 Philip Ewell's talk.

16 **A.** That may be true. I do not know what Philip
 17 Ewell's talk was about, nor did -- not did most all of
 18 our committee -- I think our committee members didn't
 19 know either.

20 **Q.** I'm not imputing -- I'm not imputing to your
 21 knowledge of -- in fact, you've testified that the
 22 knowledge of the actual controversy was a matter of
 23 indifference to the panel, right?

24 **A.** Yes, absolutely.

25 **Q.** I think you -- so you've already stated that, I

John Toaru Ishiyama, Ph.D. 9/27/24

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1 think, more than once. So I understand that's your
 2 testimony.

3 **A.** Um-hum.

4 **Q.** But here, this witness, a very key witness, can
 5 we agree, the student editor of the journal?

6 **A.** I would say a witness, not a key witness.
 7 We had multiple bits of evidence, multiple pieces of
 8 evidence that we considered.

9 **Q.** Oh, I don't deny that. But he's --

10 **A.** I would not say he's the key witness.

11 **Q.** He was an important witness. Would you
 12 disagree?

13 **A.** I would say he is a witness.

14 **Q.** Just a witness among others, right?

15 **A.** Among others, yes.

16 **Q.** That's your testimony today?

17 **A.** Yes.

18 **Q.** And he's telling you, as a member of the ad hoc
 19 panel, that he essentially agreed with Philip Ewell's
 20 talk, and he relates how this complicated his work as
 21 the editor of the journal, right?

22 MS. QUIMBY: Objection, form.

23 **A.** I cannot infer that was his meeting, but that
 24 was irrelevant to us.

25 **Q.** It's certainly part of an editor's task to

APPX.119

Q. I see.

A. Not on content.

Q. And I've always been puzzled by this section, Professor Ishiyama, because is it ever the job of an editor of a journal to censor people?

MS. QUIMBY: Objection, form.

A. Again, it could depend on what you mean by censor.

Q. Well, you put it in your report, so that's why I'm asking you.

A. Well, no. This is a quote. It's in the report, but it's a quote from what Dr. Jackson was reported to say.

Q. Sure.

A. I don't think we need -- I would ask perhaps the plaintiff to define that.

Q. Well, they had a chance to depose Professor Jackson. But again, we're talking about the Ad Hoc Panel Report. And I'm asking --

A. Okay. This is a quote. Again, this is a quote.

Q. Oh, I understand. It's a quote that you placed in the Ad Hoc Panel Report, right?

A. As dutifully reflecting what the testimony said.

1 editorial review, then the editor does have the
2 responsibility to review a piece. But I don't understand
3 the status of these articles, if they were peer reviewed
4 or if they were editor reviewed. It seems confusing.

5 **Q.** I understand. Sure, I understand. Although
6 you were given an extensive packet of e-mails that were,
7 more or less, comprehensive, detailing the communications
8 between the editorial staff that led to the publication
9 of these articles, right?

10 **A.** Yes.

11 **Q.** I'm going to represent to you, because you've
12 said the content of the publication didn't matter to you
13 supposedly.

14 **A.** It did not.

15 **Q.** There was a paper delivered by this public
16 intellectual music theory professor from New York named
17 Philip Ewell. He gave a plenary presentation at the
18 Society for Music Theory that was very well received, but
19 nonetheless, controversial. Then the call for papers
20 went out for the Journal of Schenkerian Studies for
21 soliciting responses to this article -- or excuse me, to
22 this presentation at this Society for Music Theory. The
23 papers that were published in Volume 12 in the Symposium
24 were roughly split between people who were pro-Ewell and
25 people who were anti-Ewell.

Q. Of Levi Walls.

A. Of Levi Walls, yes.

Q. And now, I want to ask a follow-up question.

In your experience and expertise as an academic editor of journals, can you identify a context in which it's appropriate for an editor to censor people?

MS. QUIMBY: Objection, form.

A. I don't think -- it depends on what you mean by censor. If you mean the job is to edit and marshal the peer-review process, then yes, that is the responsibility of the editor. But censorship is not something we consider.

Q. Is it -- is it appropriate for an academic editor to censor for viewpoints?

A. I'm not going to venture an opinion. I would, myself, not do that. I don't think censorship is part of the discussion. Rather, it's the editor's job to make sure the peer-review process had integrity.

Q. Okay.

A. That it is peer reviewed.

Q. And not to short-circuit the peer-review process by telling an author that they may or may not express a certain view?

A. Well, I mean, it depends. If this is -- if the argument is that these pieces were edited --

1 Do you have any information to suggest that
2 my summary to you is wrong in any way?

3 **A.** I have no idea what the content of the journal
4 was.

5 **Q.** Okay, good.

6 **A.** I don't even know if some were pro. I have not
7 read a single piece. I'm not even sure what Philip Ewell
8 said, as I've said before.

9 **Q.** So you didn't read a single one of the
10 contributions in Volume 12 of the Journal of Schenkerian
11 Studies?

12 **A.** No, no.

13 MS. QUIMBY: Objection.

14 Renaldo, please. I think I'm having a -- on
15 my end, I'm having freezing. Is that mine freezing? I
16 can see myself kind of jump around on the screen. I just
17 want to kind sure my objections were heard. I don't know
18 that I was able to get them in because of the --

19 MR. ALLEN: I'm seeing you freezing, too,
20 Mary. So I know what you mean. If you want to -- I
21 don't know. Was it to form? Now, she's totally frozen.

22 THE VIDEOGRAPHER: Do you want to go off
23 the record?

24 MR. ALLEN: Sure.

25 THE VIDEOGRAPHER: Off the record at

John Toaru Ishiyama, Ph.D. 9/27/24

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1 MR. ALLEN: Okay. I'm going to pass the
2 witness, Mary.

3 MS. QUIMBY: I'll reserve my questions
4 for trial.

5 MR. ALLEN: Thank you, Professor
6 Ishiyama.

7 (No deletions.)

8 THE VIDEOGRAPHER: Off the record at
9 12:35.

10 (Proceedings concluded at 12:35 p.m.)

JOHN TOARU ISHIYAMA, Ph.D.

10 THE STATE OF _____)

11 COUNTY OF _____)

12 Before me, _____, on this day
13 personally appeared JOHN TOARU ISHIYAMA, Ph.D., known to
me or proved to me on the oath of _____
or through _____ (description of
14 identity card or other document) to be the person whose
name is subscribed to the foregoing instrument and
15 acknowledged to me that he/she executed the same for the
purpose and consideration therein expressed.

16 Given under my hand and seal of office on this
17 _____ day of _____, _____.

20 NOTARY PUBLIC IN AND FOR
THE STATE OF _____

22 My Commission Expires: _____

John Toaru Ishiyama, Ph.D. 9/27/24

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John Toaru Ishiyama, Ph.D. 9/27/24

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1 CHANGES AND SIGNATURE

2 WITNESS: JOHN TOARU ISHIYAMA, Ph.D.

3 DATE: SEPTEMBER 27, 2024

4 PAGE/LINE CHANGE REASON

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1 UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF

2 SHERMAN DIVISION

3 TIMOTHY JACKSON,)

)

4 Plaintiff,)

)

5 vs.) CASE NO. 4:21-CV-00033-ALM

)

6 LAURA WRIGHT, et al.,)

)

7 Defendants.)

8 REPORTER'S CERTIFICATION OF
9 ORAL DEPOSITION OF JOHN TOARU ISHIYAMA, Ph.D.
10 September 27, 202411 I, KIM D. CARRELL, a Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
12 following:

13 That the witness, JOHN TOARU ISHIYAMA, Ph.D., was
14 duly sworn and that the transcript of the oral deposition
15 is a true record of the testimony given by the witness;

16 That the deposition transcript was duly submitted
17 on October 28, 2024, to Ms. Mary Quimby, for examination,
18 signature, and return to me by November 27, 2024;

19 That pursuant to the information given to the
20 deposition officer at the time said testimony was taken,
21 the following includes all partes of record and the
22 amount of time used by each party at the time of the
23 APPX.121
24

1 deposition;

2 Mr. Michael Thad Allen - 02 HRS: 47 MIN
Attorney for the Plaintiff

3
4 Ms. Mary Quimby - 00 HRS: 00 MIN
Attorney for the Defendants

5 I further certify that I am neither counsel for,
6 related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.

10 Certified to by me on this 28th day of October,
11 2024.

12

13

14 Kim D. Carrell, CSR NO. 1184
Date of Expiration: 7-31-26

15 JULIA WHALEY & ASSOCIATES, INC.
16 2012 Vista Crest Drive
Carrollton, Texas 75007-1640
17 214-668-5578/Fax 972-236-6666
Firm Registration No. 436
18 Certification Expires 10-31-26
Notary Comm. Expires 12-1-25

19

20

21

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23

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25

Tweet



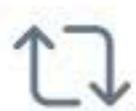
dr little ferret, phd

@imanimosley

as per always, this conversation is more complicated than it seems. it's been brought to my attention that the editors of JSS are grad students/junior scholars, etc. please let us remember their precarity when addressing how something like this can come to fruition.

10:49 · 26/07/2020 · Twitter for iPad

4 Retweets and comments **30** Likes



Megan Lavengood @meganlave... · 5m



Tweet your reply





Tweet



Megan Lavengood @meganlave... · 5m

Replying to @imanimosley

The journal is “run by” grad students but their editorial and advisory boards are mainly tenured senior scholars.

3

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12

1



Megan Lavengood @meganlave... · 3m

I haven’t been involved in a student run journal myself but to me this signals that the grunt work (soliciting submissions, administration, line edits) is done by grad students but the burden of peer reviewing and such can be squarely put on the shoulders of the boards

0

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6

1



Mariusz Kozak @prof_kozak · 8m

Replying to @imanimosley

I was told the same, but these are not junior scholars

mhte.music.unt.edu/editorial-board

2

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5

1



Tweet your reply



Tweet



Sam Reenan @sam_reenan · 7m
This brings up a really important question, which is whether these essays even were peer reviewed. If they were, how did the editorial board fail so hard. If they weren't, it's a damn shame that senior scholars would manipulate their power to espouse such views.

1

2

3

↑



Mariusz Kozak @prof_kozak · 6m
The same people who wrote the essays are on the editorial board 🤦

1

2

5

↑



Daniel Shanahan @danielshan... · 12m

Replying to [@imanimosley](#)

I would argue that this is another reason that Johnson (a senior scholar at their institution and likely their advisor) choosing to publish those viewpoints there is such an unscholarly abuse of power.

1

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7

↑



Tweet your reply



Tweet



Replying to @imanimosley

I would argue that this is another reason that Johnson (a senior scholar at their institution and likely their advisor) choosing to publish those viewpoints there is such an unscholarly abuse of power.

1

2

7

↑



Megan Lavengood @meganlave... · 2m ▾
*Jackson but more importantly, it sure looks that way doesn't it!?

1

2

2

↑



Louise Fristensky @RamblingL... · 12m ▾
Replying to @imanimosley

(I'm a grad student. But also, one assumes they have an advisory professor or something?)

1

2

2

↑



Megan Lavengood @meganlave... · 5m ▾
Two in fact!

1

2

1

↑



Tweet your reply



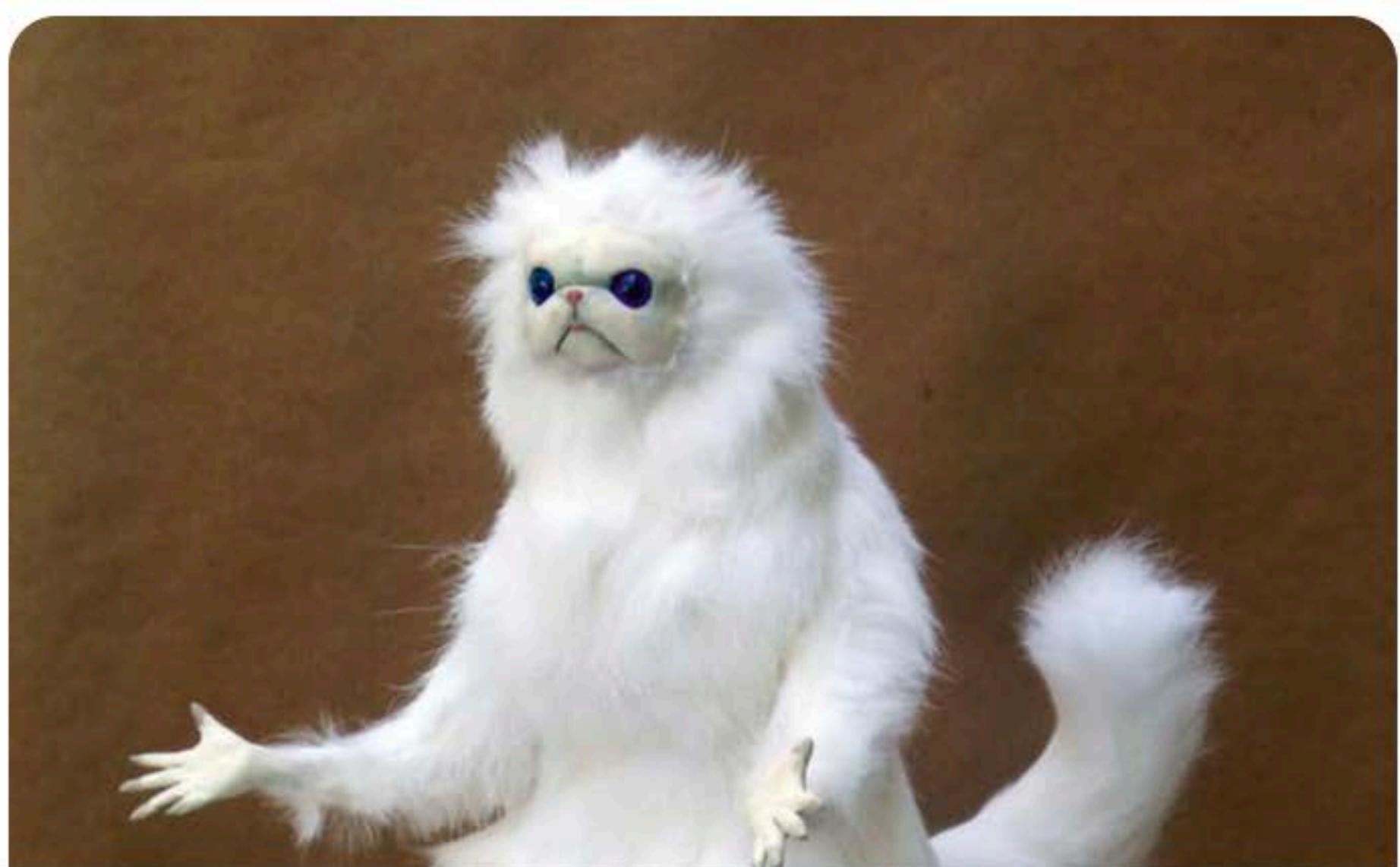


Tweet



Robert Komaniecki
@Komaniecki_R

Getting a sense of some of the inner workings of the Journal of Schenkerian studies: A former UNT student told me that when they worked on the journal, several of the board members were dead



Tweet your reply



UNT_001321
APPX.127

Peter's post

...

hole of threads and tweets trying to get the whole picture lol

33 m Like Reply



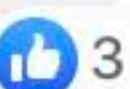
Write a reply...



Ben Graf

I'm ashamed to be associated with it, I'm really torn up about the whole issue. Levi and I are caught in a crossfire and I'm glad to be done my association with it.

24 m Like Reply



Peter Kohanski

I thought of you guys and was worried you had to get caught up in it. I'm so sorry for the position you must've been in, it doesn't sound fair and must've been really difficult. I know this had to have come from higher ups.

17 m Like Reply



Write a reply...



Write a comment...



Thread



Chris Brody @chrisbrodyMT · 15m

People are saying JSS is a "grad student journal." A possibly helpful clarification: "grad student journal" can mean several things. Type 1: run by grad students, peer review done by grad students, intended exclusively for grad students to publish in. (not JSS)

1

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2

↑



Chris Brody @chrisbrodyMT · 15m

Type 2: Peer review is done by PhD-holders, but otherwise run by grad students who make serious, significant decisions about the editorial direction of the journal (e.g. *Integral*, *ITR*)

1

1

2

↑



Chris Brody @chrisbrodyMT · 15m

Type 3: Editorial gruntwork is done by grad students, one of whom may have the title of editor, but peer review AND basically all other serious decisions are made by a PhD-holding editorial board (and may not even be endorsed by the



Tweet your reply



Thread

(and may not even be endorsed by the "editors" who must carry out their directions)

1



2



Chris Brody

@chrisbrodyMT

I could be wrong here but my impression is that JSS is closest to type 3. So please keep that in mind when deciding who deserves to "face consequences"—those who are responsible, on paper, for some decisions may have been put in a vulnerable, professionally impossible situation

14:42 · 26/07/2020 · Twitter Web App



Tweet your reply

